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OSHA, NIOSH and the VDT Issue

By L. PEYTON HENDRICKS*

Good afternoon.

It is a great pleasure to attend a conference which I think has been long overdue for the members of the labor bar who represent media companies and unions, and for the many human resources professionals who are employed in the industry. I have been asked, along with Dave Eisen of the Guild, to discuss a topic of special interest to newspaper management and labor: video display terminals (hereafter VDTs), and the labor relations aspects of these devices.

About a month ago, I listened to an address by a "futurist" who specialized in predicting the long-term state of society for purposes of strategic planning for the banking industry. The "futurist" predicted that, according to his data, 60 percent of all American workers would perform tasks using a video display terminal by the year 2000. For many newspaper departments staffed by editorial and commercial workers, the year 2000 has already arrived. Whereas in 1970 there were only a handful of VDT's in use in daily newspapers, there are probably 30,000 in use today.

It has been axiomatic in the newspaper business, and I expect in most other industries, that the introduction of a technological innovation is shortly followed by negotiations with our traditional unions on related working conditions. Those of you who were connected with the newspaper industry during the late 1950's may recall that the widespread introduction of automated linecasting machines led to intense bargaining over subjects such as the number of machines assigned to each monitor. Thus, it has been no surprise to me that the introduction of VDT's has prompted negotiations on both sides, most of

* Opinions expressed herein are those of Mr. Hendricks, and do not necessarily represent the views of the American Newspaper Publishers Association or its members.

which have been directed toward the environmental questions surrounding the devices.

What follows are some general ideas on how the VDT issue may be dealt with intelligently as a collective bargaining subject. Many of my observations are concededly made from the perspective of a management attorney, but I feel that these may be helpful to the union attorney who wants to attain a high level of objectivity on this issue.

Overall, I suggest that in dealing with the VDT issue, you must treat it like Gaul and divide it into three parts, and then prepare to devote time and study to its components. For convenience, I would categorize these as the scientific, the legal/regulatory, and the negotiation components of the issue.

At the outset, I wish to clarify that it is not my intention to convey scientific opinions about the details of research on the environmental aspects of VDT's. However, one does not need a PhD in scientific discipline to conclude that available data on the "ergonomics" of the devices—the personal comfort of the VDT operator—is sketchy at best. You can reach this conclusion on the basis of statements researchers have made in reporting on their work. For example, consider the National Institute of Occupation Safety and Health (NIOSH) study of San Francisco bay area newspapers conducted in 1979-80 cited by the Guild in support of its VDT collective bargaining proposals. On page 24 of the report, the author recommended "caution" in evaluating the significance of the findings. He emphasized that during the study, difficult labor negotiations were underway which may have caused emphatic responses by the polled workers. Further, a scientist from Bell Laboratories, in a recent address, stated that such research, both here and abroad, has been conducted under "unusual or bizarre conditions." Also, I have read correspondence from an acting Director of NIOSH to the Chairman of American Newspaper Publishers Association (ANPA) Environmental Committee, written in May 1981, in which he noted a NIOSH concern about the applicability of current research literature, and indicated a need for further research in the area.

My point is not that research into the ergonomics of the VDT is lacking or defective, only that you should carefully examine

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1. Ergonomics means the physical relations between the operator of equipment and the equipment itself.
whether the research condition of studies offered in support of a particular proposal resemble the conditions at your client's facility. For example, a study conducted abroad may have involved equipment that is not similar to the equipment used by your employees. A research study, or a part of it, may not apply to conditions at your plant.

VDT ergonomic studies in the United States are based on anecdotal evidence; the ones I have read contain worker reports of physical discomforts such as eyestrain and muscular fatigue. Some newspaper managers have said that these reports are consistent with their experience, and that heavy use of VDT's, without due regard for their setting in the workplace, may cause environmental problems that must be rectified. As I will later explain, when considering this issue from the collective bargaining standpoint, attention should be directed at areas where the unions' view differs from the manager's view.

We cannot, of course, discuss the scientific aspects of the VDT issue without mentioning what has transpired in research on VDTs as a radiation hazard. Early on, when terminals were available on a widespread basis, there were reports that they potentially may expose employees to radiation. As you can imagine, these reports were a source of alarm for newspaper managers. ANPA's production engineers conducted tests for radiant emissions from VDT's as early as 1971 with negative results: no evidence of radiation emissions at dangerous levels to operators. ANPA has continued to monitor research and testing in this area, and so far has not found hazardous radiation coming from the kinds of terminals used in newspapers. VDTs have been cleared for radiation safety by the Food and Drug Administration, NIOSH, manufacturers and large corporate users. In addition, the House Science and Technology Committee conducted hearings on VDT radiation in the summer of 1981 and advised us recently that there were no significant findings and that, as a result, no report would be forthcoming. The consensus of serious research seems to be that VDTs are not a hazardous source of electromagnetic radiation.

Let us now turn to the second part of the issue which is the current regulatory and legislative atmosphere. As you probably know, the Occupational Safety and Hazard Administration (OSHA) has no standard on working conditions for VDT operators as this is not one of its regulatory interests. NIOSH continues to study the ergonomic aspects of VDTs, but has no
plans to issue a criteria document, which forms the basis for OSHA's safety and health standards. I could speculate on OSHA's response once NIOSH completes its study. I would be surprised, though, if OSHA implemented rules in this area, for no other reason than that the agency typically focuses its resources on more serious work hazards.

You should be aware of efforts at regulating VDT operators' work by the state, as they are a valid source of concern. In 1981 there were three bills introduced in Maine, Illinois and Massachusetts, in this order. There is also a Canadian bill pending. What these bills purport to do is impose civil penalties up to a thousand dollars for each violation by a private employer. Thus far, State legislation in this area has gotten nowhere. I do not know whether absent federal regulation any state will independently choose to regulate in these areas. However, I leave to your imagination what effects on the work force and the economy of a particular state would result from the implementation of such regulation.

Finally, let me address the negotiations over VDTs. I will first discuss the most frequent attorney inquiry to ANPA: "so far what has been agreed to and by whom?"

We have roughly 135 Guild contracts on file at ANPA, and avoiding details I will summarize the VDT environmental language contained therein.

Thirteen contracts provide for eye examinations for employees, usually prior to assignment to regular work on VDTs.

Fourteen contracts call for periodic testing of VDTs for safety, generally by a semiannual test for radiation levels in excess of governmental standards.

Twelve contracts establish a safety committee to study VDT working conditions.

Seven contracts call for miscellaneous conditions such as glare shields and adjustable chairs.

Five contracts call for rest breaks either of fixed duration, or as conditions require them.

Note that there is some duplication in the newspaper contracts. However, I do not believe any newspaper has agreed to adopt all of the language that I have described.

In summarizing my thoughts on VDT negotiations, let me stress that these are my personal perceptions; ANPA does not advocate a blanket approach to local bargaining. First, given the pervasive nature of VDTs in the communication workplace, it seems obvious that proposals relating to the machines must
not be relegated a low priority for study. They have to be evaluated in terms of the benefit to employees, the management objective of work efficiency, and the desire to minimize cost, not merely by their language on jurisdiction and economics. Second, I recommend strong resistance to union proposals that attempt to impose a formulary solution to VDT environmental problems, if in fact such problems exist. For example, if visual difficulties can be solved by room lighting adjustments, you should not feel obliged to install glare shields on equipment. Many VDT problems are thought to be task related, and if applied across the board, mechanical remedies may be counterproductive and ineffective. Third, I advise use of the technical assistance and information available to help your client assess the VDT environment. ANPA has a technical advisory service of staff engineers and industrial hygienists available to its members for a moderate fee. Many university engineering departments offer similar services. Finally, there are many goals which pertain to environment and VDTs which surely are common to labor and management. One such goal is a sound working environment for employees. I suspect that labor and management differ largely over the means to attain these goals.