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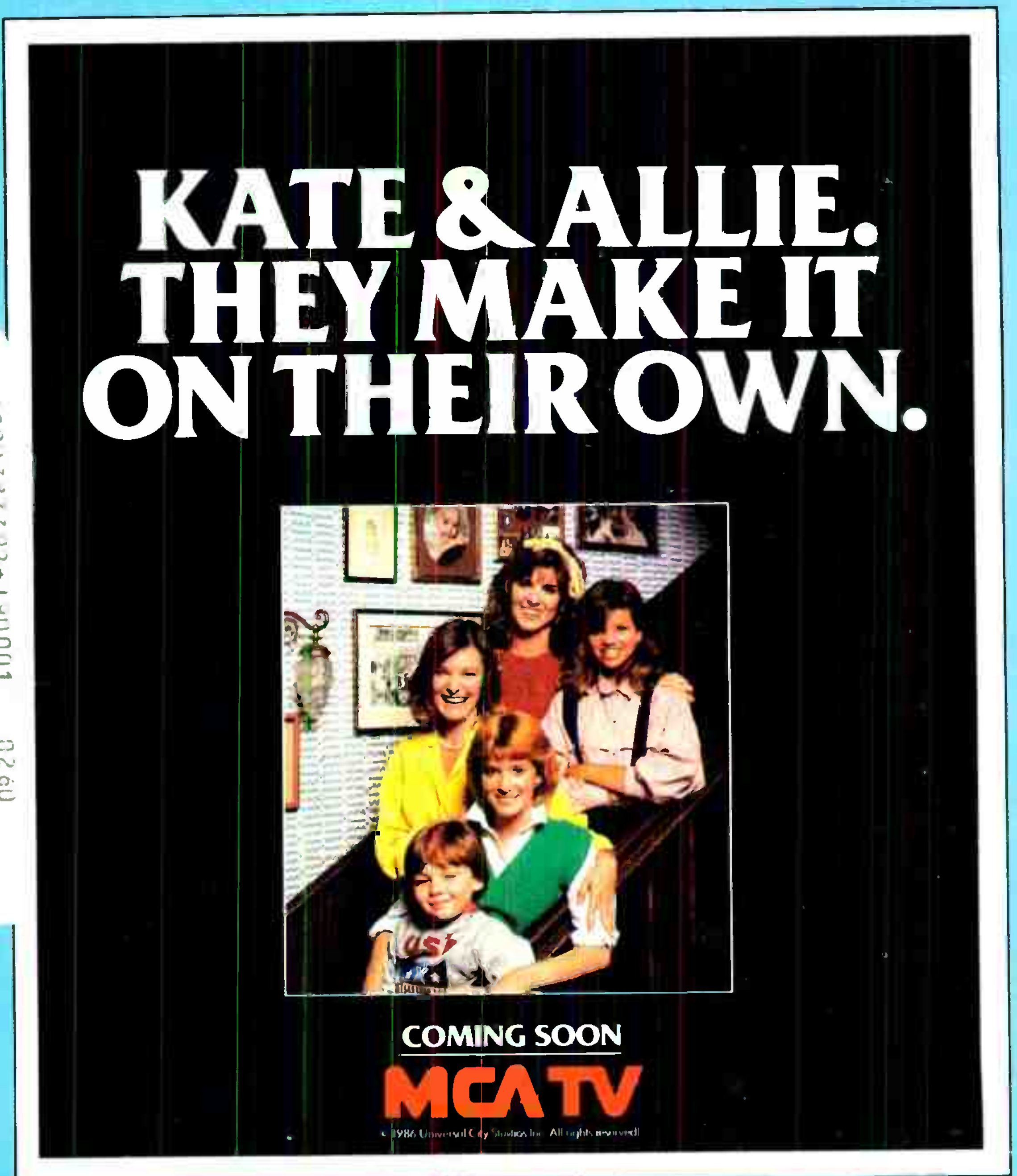
Television/Radio Age

April 14, 1986 $3.50



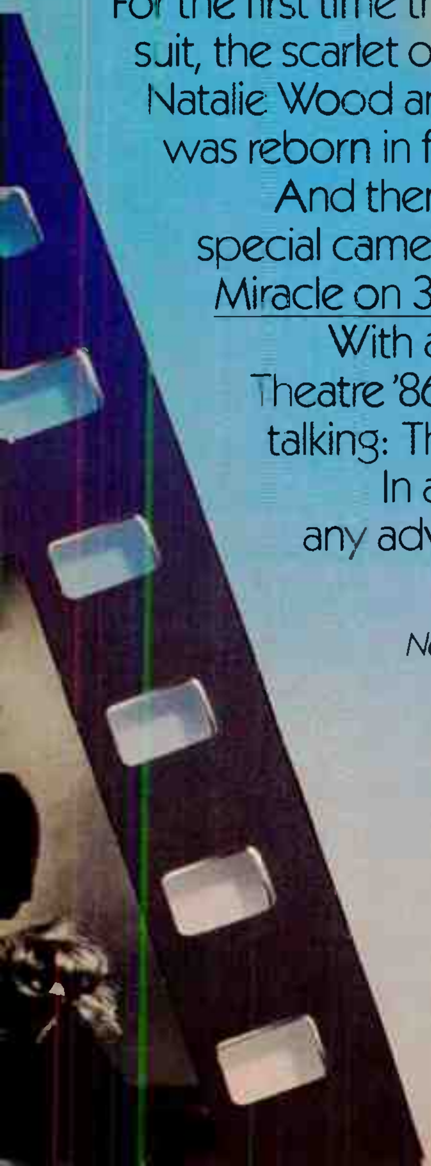
Last year over 20 million Americans witnessed a modern miracle.

It was a unique event for a whole new generation of viewers. For the first time they enjoyed the merry red of Edmund Gwenn's Santa suit, the scarlet of Maureen O'Hara's hair and the vivid presence of Natalie Wood and John Payne, as America's favorite holiday movie was reborn in full color.

And then, in 182 markets across the land, something very special came to pass. A rating of 14.7, making the new colorized Miracle on 34th Street the top ranked syndicated feature of 1985.

With a ratings Miracle leading the way, Fox Hollywood Theatre '86/'87 also offers three other films that get people talking: The Stone Boy, Betrayal and A Night in Heaven.

In all, it's enough to make a true believer out of any advertiser.



Next holiday season, give your viewers the gift of color.

Miracle on 34th Street

20th Century Fox
TELEVISION

Television/RadioAge

April 14, 1986 *Volume XXXIII, No. 21*

In the next issue—roundtable on cable advertising

DEPARTMENTS

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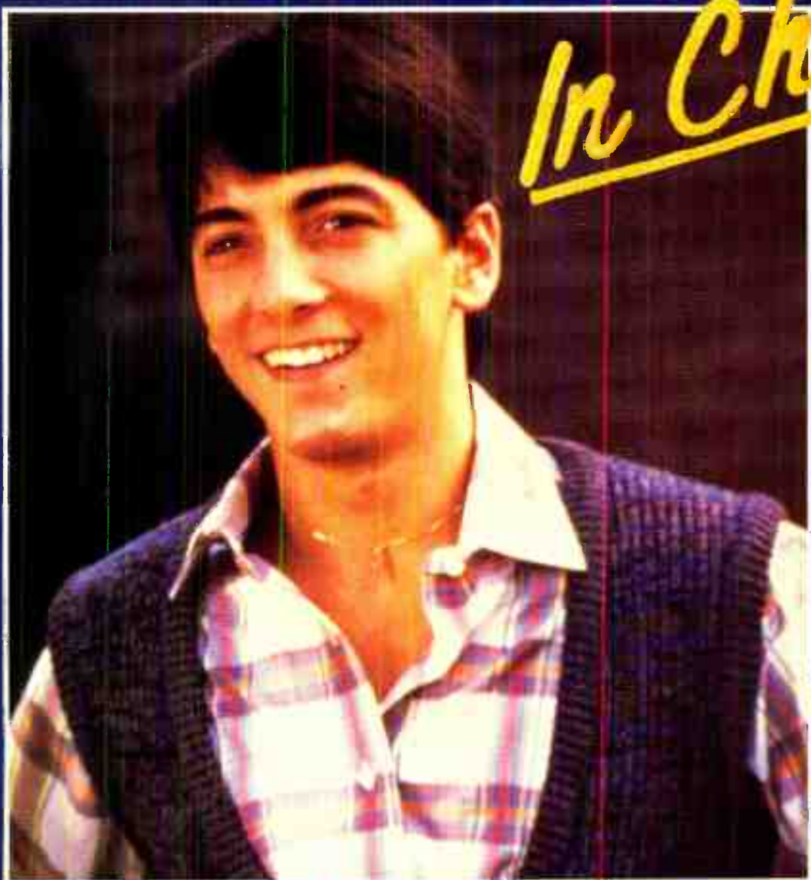
CHARLES® *In Charge*



Charles In Charge which premiered on the CBS Television Network, is available this January with all-new, first-run episodes. And Scott Baio, acclaimed for his starring role as Chachi in *Happy Days*, will once more be in charge.

That's good news for stations and advertisers looking for a first-rate, first-run, half-hour, comedy series that has one of the strongest demographic combinations of young women, teens and kids.

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starring Scott Baio

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Newhart

Another MTM production from

Victory Television

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Source: NTI, 1984-85 season averages and 1985 reruns.

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MTM production
from

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W18-34. W18-49. W25-54. M18-34. M18-49. M25-54.

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Audience data: Nielsen Television Index. Season to date through Mar. 7, 1986; total persons.

Why More Americans Watch NBC News' Three Daily Programs

Each network news department produces three Monday-through-Friday programs. More people, a total of over 30 million a day, watch NBC's three – NBC Nightly News with Tom Brokaw, Today and NBC News at Sunrise – than watch those of the other networks.

With good reason. 1986 has been a remarkable news year, and no one has covered it as well as NBC. Here's what knowledgeable observers say:

NBC Nightly News with Tom Brokaw: "Brokaw likes to be where the action is; he is at his best with breaking stories . . . More than the other two, he projects a sense of involvement, the possibility that he shares his viewers' values."

– Esquire Magazine

Space Shuttle: "All three networks performed with admirable sensitivity . . . NBC's Brokaw was the coolest and most lucid of the three." **– Time Magazine**

Philippines: "NBC's Tom Brokaw was the most visible of the network anchormen for coverage of Marcos' final fall . . ." **– New York Daily News**

Today: "NBC's 'Today' show attracted the largest audience ever for a morning news and informational program last week when it was broadcast from South America." **– Associated Press**

NBC News at Sunrise: "'Today' isn't the only morning star shining in the ratings . . . 'NBC News at Sunrise,' the newscast for early risers, has landed first-place honors." **– USA Today**

NBC NEWS

TUNED IN TO THE WORLD

Publisher's Letter

Regulatory realities addressed as NAB convention convenes in Dallas

As the National Association of Broadcasters convenes in Dallas, our annual Federal Communications Commission issue gives a fascinating profile of the regulatory climate of the broadcast business. Authored largely by our Washington correspondent, Howard Fields, a reading of the series of articles imparts an understanding of the victories the broadcast industry has won in the regulatory arena, and the challenges that lay ahead.

As Fields acknowledges, the stewardship of FCC chairman Mark Fowler, and his tenacious adherence to free market principles, has largely allowed the industry to escape the tangle of restrictive and, in many cases, unnecessary regulations borne of an unchecked bureaucracy. The lawyers in Washington call this the regulatory "underbrush," and Chairman Fowler has done well by the industry in clearing a more reasonable pathway.

A complete reading of the package within also underscores a certain regulatory reality: Broadcasting remains a regulated industry, one in which the public interest remains the paramount value to be served by regulatory oversight. Serving the public interest and making a profit are compatible goals, as the best and brightest of this nation's broadcasters long have proven. Rational regulators like Chairman Fowler recognize this.

Broadcasters and regulators alike would agree that unreasonable regulation does little to serve the public interest, and many times works against it. On the other hand, some minimum regulatory framework sometimes essential to preserve the interests of both the public and the industries involved. Few in our business would recommend the total abolishment of the FCC; on the technical and policy sides, it provides a vital structure not only for enforcement of rules, but for just adjudication of inter- and intra-industry disputes. As Fields notes, the FCC has become more of a "mediator" of late than an over-zealous regulator, and that is to the benefit of all.

But such sticky issues as copyright fees, must-carry and equal time provisions underscore the difficulty of avoiding the very real concerns of the parties involved by simply repeating the incantation, "Let the market decide." Must-carry is a perfect example. Both cablecasters and broadcasters seek and deserve full First Amendment rights on a par with print media. But let us not forget: the First Amendment applies foremost to the individual and to the public, as well as to corporate citizens. With the interests of both the public and the industry in mind, the broadcast community, led by the NAB and INTV, sat down and worked out with the cable industry a compromise on must-carry that gives greater assurance to local broadcast station operators, especially new and smaller independents and UHF stations, that their signal will be carried into local homes served by cable. As cable slowly increases its penetration (it now is approaching 50 per cent of TV households), this assurance of carriage should help stimulate the market for a diversity of broadcast voices, something that enhances free market competition and, arguably, First Amendment rights.

S. J. Paul

Letters

Cable measurement

Statistical skirmish: Nielsen cable stats vex cable net execs (March 17) was a fine article with all the right insights from all sides. I believe Nielsen is correct in saying there is a natural correction of the difference between the meter increase figure and their NSI-derived system universe estimates, the illegals notwithstanding. The real story is that only TNN and Lifetime are growing their audience at a time of slow universe growth.

HARLAN ROSENZWEIG
President,
Group W Satellite Communications

Tv sweeps

In responding to Julian Goodman's statement as it relates to sweep measurement (*Viewpoints*, March 3), I think you should keep in mind that the reason that the sweeps have become so important is that it is the only time of the year that all television markets are measured and, as a result, it is the only survey period that agencies and advertisers can use to evaluate all TV markets on some kind of comparable basis.

I agree with Julian in that four survey periods, which represent about 16 weeks, should not be any more important than the other weeks during the year. Frankly, if all weeks were treated equal it would certainly be more representative of our industry.

I believe until all markets are measured (or certainly most markets) 52 weeks a year that you are never going to eliminate the importance of sweep measurement because, for example, in Green Bay, Wisconsin, where there are only four books a year. . .believe me. . .November, February, May and July are "life or death!"

JAMES M. RUPP
President & chief executive officer,
Midwest Communications Inc.,
Minneapolis

WHTZ 'delisting'

The following is excerpted from a letter sent by William O'Shaughnessy, president, WVOX/WRTN(FM) New Rochelle, N.Y., to Ted Shaker, chairman and CEO of The Arbitron Ratings Co. O'Shaughnessy provided a copy of the letter to TV/RADIO AGE.

I've been greatly concerned about the recent sanctions Arbitron reportedly visited on one of my fellow broadcasters—and because I did not wish to become a party to the dispute, I've waited until now to let you know of my unease when I learned of Arbitron's "delisting" of WHTZ (New York).

I have the honor of representing all the stations of New York State and New Jersey on the board of directors of the National Association of Broadcasters in Washington.

But I would like to submit for your consideration the strictly personal observation that Scott Shannon and his zany, young associates on WHTZ's Zoo program have done more than almost any others to focus attention on *radio* in the New York area in recent years. Their "Worst to First" campaign enlivened our calling with the first real burst of genius and creativity in a good, long time.

It appears that Scott apparently could not resist commenting on the "Ratings Game", which is played with such intensity and fervor by my colleagues at most metro area stations. He *poked fun* at Arbitron . . . and at the *process*.

Have we, I wonder, lost our sense of humor?

WILLIAM O'SHAUGHNESSY

YOU CAN WATCH THE FOUR HIGHEST RATED NEWSCASTS IN WASHINGTON...

...AND NEVER CHANGE THE CHANNEL.

Local Washington Newscasts	Mon-Fri Program Average
1) WDVM Eyewitness News 11 pm	15/31
2) WDVM Eyewitness News 6 pm	15/26
3) WDVM Eyewitness News 5 pm	13/26
4) WDVM Eyewitness News Noon	12/40
5) WRC 11 pm news	12/26
6) WJLA 11 pm news	11/23
7) WRC 6 pm news	10/16
8) WRC 5 pm news	8/16
9) WJLA 6 pm news	8/14
10) WTTG 10 pm news	8/12

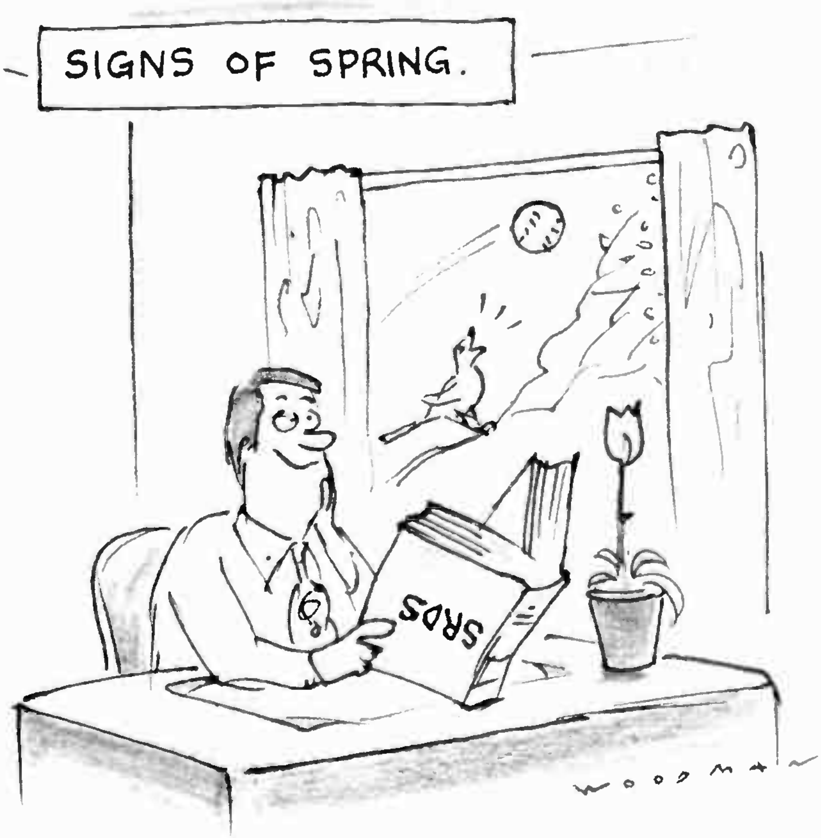
Source: NSI February 1986

GANNETT
A WORLD OF DIFFERENT VOICES WHERE FREEDOM SPEAKS

THE ONE & ONLY 9

WDVM-TV WASHINGTON D.C.

Represented Nationally by MMT Sales, Inc.



Sidelights

Engineering honor

Dr. George H. Brown, who will receive the National Association of Broadcasters' Engineering Achievement Award at the current convention, allows as how he's not overly impressed by the current state of TV technology.

If you evaluate technology by its complexity, he argues, you'll have to go far to top NTSC color. Dr. Brown knows a lot about that subject, having worked on it and having been the chief technical witness before the Federal Communications Commission during the 1949–'50 hearings on a TV color standard. (The FCC initially chose the CBS-developed sequential color and later reversed itself and noted in the current NTSC compatible color standard.)

Dr. Brown, now retired from RCA, worked for the company during his entire professional life, becoming its top engineering executive. He holds about 80 patents, about half of them related to TV and radio transmitters and related equipment. His particular area of interest was antenna development and

Dr. George H. Brown (1968)

system design, and one of his major achievements was the conception of the turnstile antenna, which became the standard antenna for TV.

The 1986 NAB award winner was born in North Milwaukee (he's 77 now) and was graduated from the University of Wisconsin in 1930 with a B.S. in electrical engineering. He won a fellowship, earned his M.S. from Wisconsin the following year, won another fellowship and received his Ph.D. from Wisconsin in 1933. The professional E.E. degree came in 1942.

Dr. Brown went to work for RCA right after getting his doctorate. Employed in Camden, N.J., as a research engineer, he worked on, in addition to

Sidelights *(continued)*

the turnstile antenna, FM and facsimile transmission.

In 1942, after Pearl Harbor, he was transferred to the new RCA Laboratories research center at Princeton, N.J. During World War II, he was responsible for important advances in antenna development for military systems and for the development of radio-frequency heating techniques. The latter was used by Brown and his associates to speed the production of penicillin. When the world conflict was over, Brown received a War Department Certificate of Appreciation "for his outstanding work in the research, design and development of radio and radar antennas during World War II."

In the early postwar era, Brown played a leading role in directing RCA's research into color and UHF. In 1952, he was appointed director of the Systems Research Laboratory at the RCA Labs. Five years later, he was named chief engineer of the RCA Commercial Electronic Products Division at Camden and after six months was appointed chief engineer, RCA Industrial Electronic Products.

Brown was named to the post of vice president, engineering, at RCA in March, 1959, then vice president, research and engineering in November, 1961, and executive vice president, research and engineering, in June, 1965. In August, 1968, he was appointed executive vice president, patents and licensing. He retired in 1972.

Huntington retires

"Just don't call me early in the morning," warns George G. Huntington about his retirement plans after 30 years of service at the Television Bureau of Advertising. Huntington, set to leave his post of executive vice president-operations on May 1, is happy he'll no longer be rising at 5:15 a.m. everyday to make the two-hour drive from Islip, L.I., into Manhattan.

Not that he hasn't loved the trip, but it couldn't quite compare to his favorite pastime—speeding his boat around Long Island's South Bay at around 72 mph. He'll be doing a lot more of that starting next month, but he stresses he's not through with the TV business just yet.

"I'm not going to go home and hibernate," he declares. "I'm planning to do some consulting work." For TvB? "If they can afford it," he laughs.

Huntington, who joined TvB on its first anniversary, has been called the association's "creative muse and guiding spirit" by president Roger Rice. He's seen a lot of changes over his three decades at TvB, but says the greatest changes have come in just the past five years.

Huntington, whose post will be taken over by TvB vice president-local sales Robert Baker, outlined these developments last week in his "farewell report" to the TvB board. During the past half-decade, he said, TvB has switched from focusing on its own output to focusing on its members' input. Along with this has come a transition from "volume to quality," aided by quarterly questionnaires which help the association re-

George Huntington

spond to its members' needs.

Now, Huntington says, TvB is "results-oriented" rather than "activity-oriented.

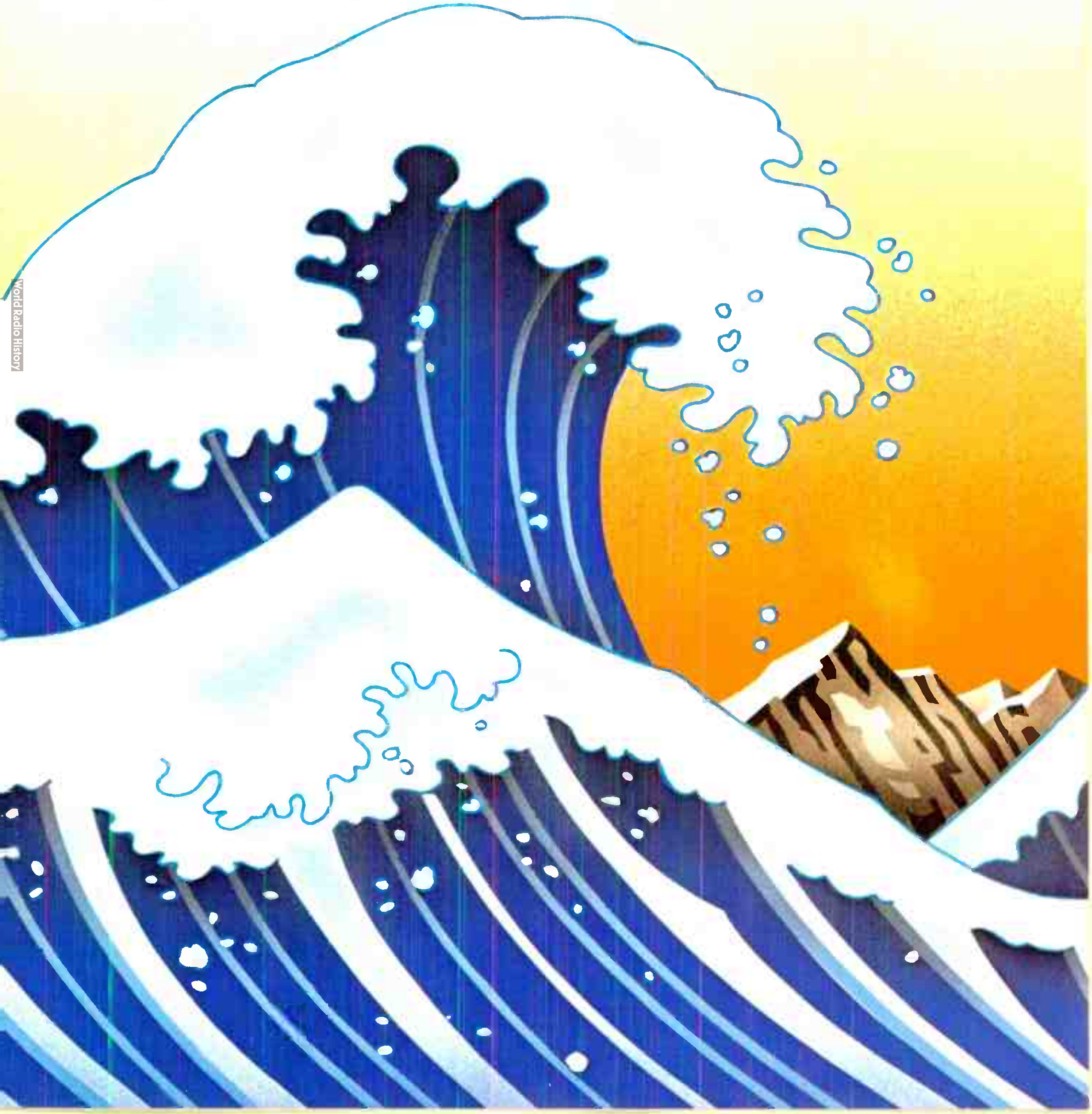
"Instead of saying, 'we've sent out so many sales tools,' " he notes, "we can say, we've generated so many dollars." Computers have helped in this regard, as well as in pinpointing the needs of individual stations.

And TvB, Huntington says, has shifted from trying "to do the same thing for everybody" to providing individualized attention. We've found there are great differences amongst stations," he noted, such as market size and training needs.

Of course, there are also a great many more stations than there used to be. In 1956, there were a total of 440 TV stations, just about half of today's number. In 1956, TvB had 10 employees, all in New York. Today, it has 72 employees in six locations.

The addition of offices around the country helped cut down the hectic pace that existed for TvB workers in the '50s, Huntington says. Under TvB President Ollie Treyz, he recalls, "the most important thing in the world was that we would work all the time. . . and go all over. Now we have branch offices

RIDE THE CREST...



Tele-scope

Fall ratings vs. people meter: Nielsen moving too fast?

With upfront buying of next fall's network programming soon to begin, there is growing concern that A. C. Nielsen's race to implement the people meter will throw post-buy analysis out of kilter—but it's primarily the networks who are expressing that concern. Nielsen has stated that it will decide in June whether to replace its diary based NAC (National Audience Composition) with people meter-derived demographics. If it does so, this first leg in the evolution of the people meter will take place in September. This would mean that the networks would be bought on one basis and provide makegoods on another.

Toni Smith, NTI national marketing manager, says that actually a decision on whether to continue running the diary data in tandem with the people meter data could be made in May. She says Nielsen is calling advertisers and agencies to determine which way they want to go and, so far, "Some want to make a clean cut, while others want to be able to do their post-buys on the basis of the numbers they bought on." If it's decided to do both for a while, she says, the syndicated reports would reflect the people meter numbers, but the diary data would be presented in a special tabulation as well as in computer tapes. Meanwhile, the three networks recently met with Nielsen to discuss the possibility of their footing the entire bill for continuance of the diary NAC for a period of time. They are still weighing this prospect.

A clean break. While Nielsen is yet to get the final count of how agencies want the situation handled, those queried by TV/RADIO AGE lean toward dropping the diary data come September. Joe Ostrow, vice president, director of communications services at Young & Rubicam, asserts, "There are a lot of points of view in terms of keeping it parallel for a year or some other form of hedging. But the people meter is a better representation of audience habits. I don't know why they should keep the diary data for historical purposes if the information is not as good." He says the variance between upfront buying and post-buy would have to be "accomodated" as an element of negotiation.

Sam Sotiriou, senior vice president, media research director at Dancer Fitzgerald Sample, says he has only seen comparative data from Nielsen on the two methods for January and that it has wrinkles in that key demographics like men and women 18–34 are not reported, so he would like to see more data before a shift is made. Otherwise, he isn't certain the two methods will have to be run in tandem by September. He notes the data represents a four-week average by program and that, if analyzed in terms of an overall network buy—the basis on which post-by is done—"some programs will be up and some down, and it tends to wash out."

"Our preference is to make a clean break now and go forward with the people meter data in September," asserts Steve Singer, vice president and director of media research services at BBDO. "Even if we had two years of people meter data," he says, "at some point we're going to have to make that jump." With the people meter data Nielsen is generating now, he says, ratings estimates can be made on the basis of expected differences so that adjustments in prices next fall can be made with the improved data.

Network concern. The networks, though, are less optimistic. Bill Rubens, vice president, research, NBC, recently told the annual conference of the Advertising Research Foundation, "In just a couple of months, when the upfront buying season starts, there will be chaos as the agencies and advertisers realize the consequences of the Nielsen company's decision. Nielsen's abandonment of the current system, and interjection of unfamiliar numbers that will result from people meters, means that the industry won't have adequate time to evaluate how to buy and sell television for the upcoming fall season."

ABC's vice president, marketing and research services Marvin Mord has told TV/RADIO AGE, "We've now got a system on which basis billions of dollars are being spent. We're basing a great deal of our guarantees against demographics. It could be that we're 10 per cent off from where we might have been, so it's important that we don't make an abrupt change."

Slow upfront barter

The agency community is taking its sweet time in making any significant purchases for the upfront barter syndication marketplace. While there have been some specific buys based on requirements by the advertiser, several have not yet firmed any budgets for syndication, according to some key agency buyers. One of the reasons for the apathy on the part of advertisers is that "there continues to be an aura of uncertainty on the networks' level," points out Richard Kostyra, J. Walter Thompson executive vice president, U.S. director of media services, "We know that major changes will occur, with the networks getting hungrier and leaner, and we don't know what the network stance will be on pricing."

Paul Isacsson, executive vice president, director of broadcast programming at Young & Rubicam, says his agency's advertisers for the most part are reticent on making upfront syndication purchases because of what is being projected as an upcoming soft network marketplace. "I see a laid-back marketplace in barter and I see no incentive to move early until we get well-below network prices or we won't buy at all. At this point, we know that the network marketplace will be soft, but we don't know how much.

Kostyra notes that the networks had a soft 1985, explaining that CBS recently stated that billings on all three webs were $8.3 billion, "virtually flat from the previous year," he says. He predicts that things won't get better this year for the webs. In fact, he believes that sales will be about the same as in 1985, or even will dip somewhat. But Isacsson at Y&R sees the networks registering an increase in sales this year,

although he puts it at not more than 7 per cent. He notes that network billings have increased about 10 per cent each year over the past two years, and "a growth rate of 20 per cent over 1984 and 1985 isn't bad at all. Also, the 1985 billings were without the Olympics the year before.

Meanwhile, one area where the networks seem to be doing well upfront is kids' programming. Kostyra notes that while his agency is not heavy in buying children's programming, he understands that a lot of kids' money has moved at reasonable prices at CBS, where deals have been wrapped up early. It's his opinion that CBS wanted to lock up kids early because the network lost too much money last year to syndication.

VCR data sought by Arbitron

While a subcommittee of the Advertising Research Foundation awaits proposals from A. C. Nielsen, Arbitron Ratings and AGB Television Research on a pilot study to evaluate improved electronic measurement of VCR usage, Arbitron meanwhile plans an improvement of its diary data. According to David Lapovsky, Arbitron's vice president of research, starting next fall, panel members will be mailed a separate diary to record VCR usage.

Lapovsky says panel members are already asked to enter VCR viewing in their regular diaries, but it is believed they are not paying sufficient attention to this request. The separate diary, he says, would require them to write down what is being recorded and who is expected to view it. Like Nielsen's electronic means of gathering data, this would account for recording, not actual viewing. The ARF pilot study will call for measurement of actual playback.

New data. Meanwhile, Arbitron is processing data from a study it did last fall on VCR utilization and expects to have the information together by July or August. The study was done on a 28-day diary basis with some 2,000 VCR owners who had not participated in any previous survey. Corresponding with the November sweep, the survey was based on a national probability sample drawn from telephone listings.

The study will cover such areas as viewing of rented cassettes, making and viewing of recordings in the household, deletion of commercials while taping and skipping commercials through fast-forwarding. Lapovsky says zipping could be analyzed by program type or title, but it has not been decided yet whether to do so. He adds that the study includes a full list of household characteristics that can be correlated with zipping, such as presence of cable and length of VCR ownership.

One finding so far is that a surprisingly high percentage of Hispanics and Orientals own VCRs. Hispanics, he elaborates, coincide with the national penetration figure of 30 per cent, while Orientals are at 48 per cent and blacks at 19 per cent. He concludes that the ability to acquire videocassettes in native languages from abroad is a probable factor.

Production groups merge

The new International Teleproduction Society is holding its first general meeting in conjunction with the National Association of Broadcasters Convention in Dallas this week. Just recently, the east coast Videotape Production Association and the Videotape Facilities Association based in Los Angeles joined forces to create an organization with broader scope.

The new ITS hopes to attract input not only from the U.S., but from Canada, the U.K., Japan, Australia and other emerging teleproduction centers around the world. Member companies in ITS will be those engaged in video and audio production and post-production, in videotape duplication and standards conversion.

Long-range goals of the organization are to achieve industry recognition, establish uniform operating and recording standards and practices, achieve a unified voice in addressing common goals and provide an ongoing exchange of information and ideas between manufacturers and users of video technology. The new association also expects to establish a "seal of approval" as a standard of cooperation and performance to which all industry members agree to and adhere.

More immediately, ITS expects to publish an international handbook of standards and practices, a national directory of ITS members and quarterly newsletters. Also planned is market research in such areas as purchasing trends, client needs and future business projections. Legal research would lead to recommendations on liability, warranty and other legal matters regarding facility operation.

Conill joins AC&R Rossi

After months of rumor and speculation, it's official: Spanish language agency Conill Advertising is finally part of Ted Bates' AC&R/Rossi Spanish language agency. Conill's $18 million in billings brings the total for the combined agencies to an estimated $22 million, with Conill's client list including Spanish language assignments for Nestle Foods, Campbell Soup, Scott Paper, American Home Products' Boyle-Midway Division, Beech-Nut, Jeffrey Martin, Polaroid and NYNEX. Carlos Rossi continues as president of the combined operation and Alicia Conill moves in as chairwoman.

NATPE dates changed

The 24th annual NATPE International convention dates have been moved up a day next year, but NATPE's version of Super Sunday will not be affected. The new dates for the confab are January 21–25, 1987, instead of January 22–26. According to a spokesman at NATPE, the change in the dates is designed to give attendees an opportunity to be back at their desks on Monday for a full week at their job. As to the Super Bowl part, it will be held on January 25, as scheduled, at the convention center at 4 p.m., but this time after the convention is officially over, with big screen and popcorn, etc.

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TV Business Barometer

Local January billings up 13.4%

Local TV billings in January shared the double-digit increases registered by national/regional spot business during the first month of the year. (see *TV Business Barometer*, March 31). However, spot did a little better than local in terms of the percentage increase—something that hasn't happened very often during the past few years. In fact, during the previous 36 months, the spot percentage increase topped the local degree of rise only six times.

In any case, the local increase came to 13.7 per cent, as against the 16.4 per cent rise for spot in January. Local volume was $302.1 million vs. $265.7 million in January, 1985. This compares to the $345.0 million total for spot this past January and the $296.4 million for spot in January, '85.

The medium-size TV stations showed the best increase among the three revenue groups measured by the *TV Business Barometer*. The middle bracket ($7–15 million in annual revenue) had a checkered record in '85, coming up with the biggest percentage increase during two months last year, placing second six times and pulling up the rear four times.

Neither of the other two brackets did badly in January. The worst of the two, the smaller outlets, still showed a 9.5 per cent increase. Since these figures are based on subsamples, the percentages must be regarded as approximate.

In network compensation, the historical pattern continues: diminution in shares. The January increase for network comp vs. '85 was only 2.3 per cent, less than half the overall growth rate of '85, but actually ahead of that in '84, which came to only 1.8 per cent. Network comp volume was $34.9 million in January, as against $34.1 million in '85.

If the figures for spot and local time sales plus network compensation are combined, the data show that network comp was 5.1 per cent of the combined total this past January. This is higher than the average for '85, which came to 4.4 per cent. However, this does not reflect any kind of surge in network comp, since its January share is only as high as it is because spot and local billings are generally low in January, compared with the other months of the year. Further, network comp's 5.1 per cent share this past January was still lower than the figure for January, '85, which came to 5.7 per cent.

Portents of '86

The perennial question about whether January portends the behavior of TV advertising for the rest of the year must, as usual, be answered with caution. The economic signs are mixed, though more positive than negative. Agency media directors, participating in a roundtable discussion with editors from TV/RADIO AGE (see lead story in March 31 issue) were quite conservative.

Local business +13.7%

(millions)

1985: $265.7 **1986: $302.1**

Changes by annual station revenue

Under $7 million	+9.5%
$7–15 million	+18.7%
$15 million up	+13.4%

Network compensation +2.3%

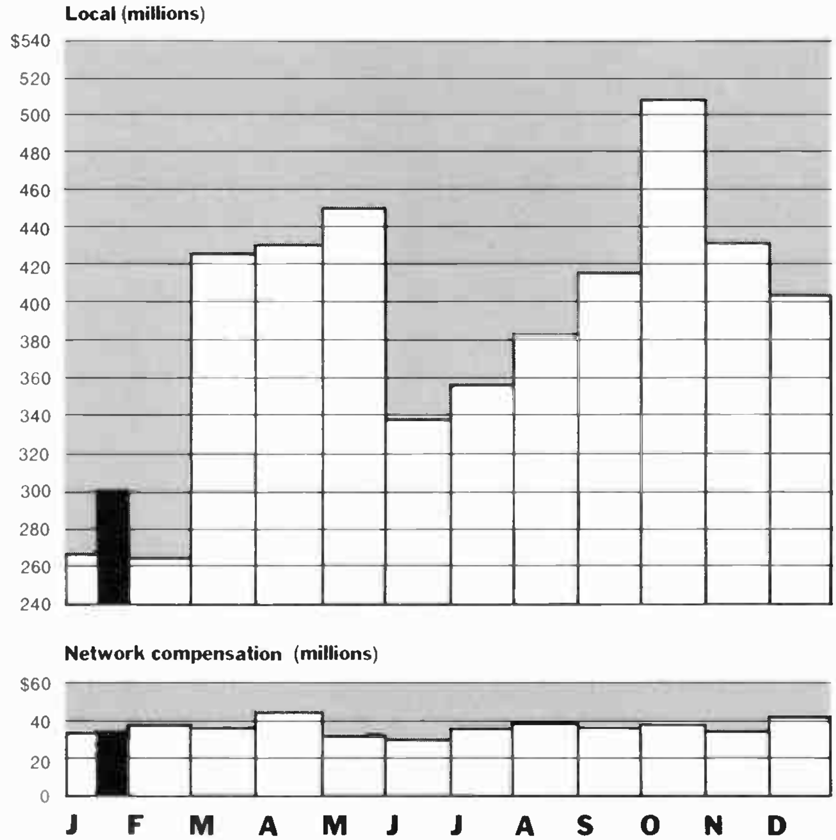
(millions)

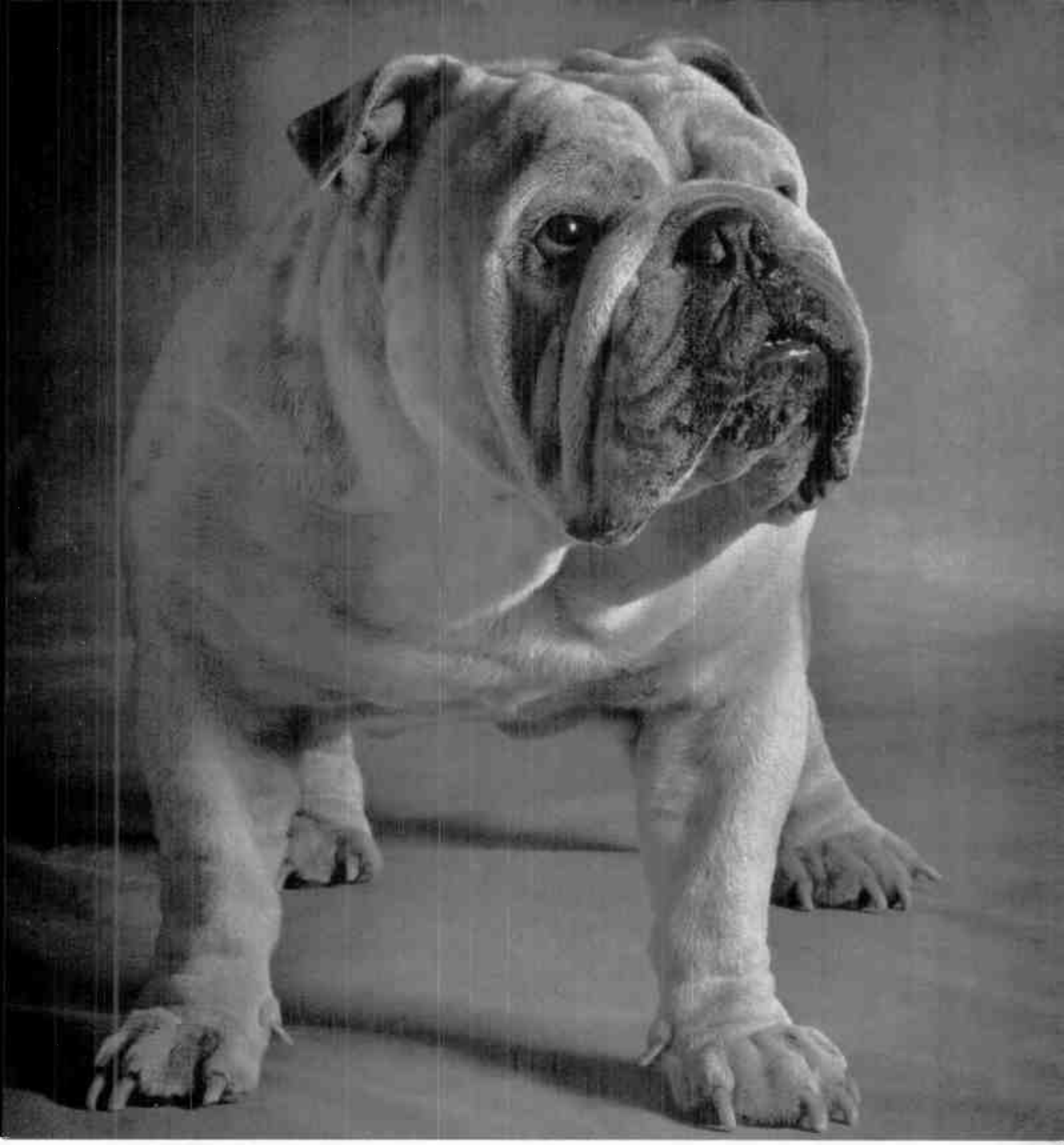
1985: $34.1 **1986: $34.9**

Changes by annual station revenue

Under $7 million	+3.1%
$7–15 million	+4.0%
$15 million up	+1.9%

January





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Television

Cable Report

Ted mulls MGM leaseback

Now that Ted Turner has become the biggest corporate debtor ever to assume control of a major Hollywood studio, the industry is watching to see how Ted handles the $1.5 billion debt load that came with the MGM deal along with its much-valued 4,500-plus film library. Exploitation of the film library, a rich product source for Turner's cable superstation WTBS, is key to Turner's MGM strategy—although since the initial deal was struck, he has mused about assuming control of a full-fledged studio operation.

While Turner is almost certain to retain the rights to the library and to his one-half share of home video rights to MGM product (CBS-Fox gets 50 per cent under a previous deal), his continued control of other MGM assets appears highly problematic. And with some of notes due for repayment as early as September 1, Turner doesn't have long to act. Cornered recently at a New York City reception for advertising agency and client types being wooed for his summer Goodwill Games event in Moscow, Turner remarked that the massive debt notwithstanding, he's going to try to keep "as much of MGM as we can." The man who named his son Rhett after the Clark Gable character in the MGM classic *Gone With the Wind* says he's considering a sale-leaseback technique under which certain assets would be sold to friendly parties, then leased back to Turner Broadcasting System as managed properties.

Relieving the burden. Such a strategy would relieve Turner of a heavy financial burden, while allowing the synergistic possibilities of co-managed production and distribution mechanisms.

Turner also notes that John Malone, chairman of largest cable MSO Tele-Communications Inc., has become the second-largest stockholder in TBS next to him (Turner himself controls 80 per cent of the company) with about 600,000 shares, or 3 per cent of public stock. Turner says conversations continue with Malone on continued equity involvement in TBS.

But are Turner's hopes of retaining a lion's share of MGM a financial pipe dream? Asked about it, TBS executive vice president Robert Wussler had this sobering comment: "Ted has a chance of holding onto all of MGM if the sky opens up and an angel comes down from heaven . . .To retire that debt, we're going to have to sell off assets, probably starting with the land (the MGM studio lot and related facilities). Of course, maybe there's a rich Arab somewhere who thinks Ted has done a good job and wants to back him . . ."

While that last comment was taken jocularly, it's interesting to note that the wealthy Egyptian Fayad family had expressed an interest in MGM at the time it was first put on the block by former owner (and now holder of the again-independent United Artists) Kirk Kerkorian.

Wussler also says TBS is banking heavily on the next big MGM film release, *Poltergeist II*, which comes out this spring. If that movie repeats the success of the original, Wussler indicates, it could put new energy onto MGM's current product stream, which of late has come close to running dry with a series of box office disappointments. A mega–hit film, he hints, could make it easier for Turner to attempt to retain his newly–won Hollywood lot.

Showtime's pre-buy coup

Exclusivity once again is the buzzword in pay television—and the ramifications could fuel the already intense competition among the players. Michael Fuchs, chairman of Time Inc. unit Home Box Office, got the current wave started with public talk of re-entering the pre-buy market and increasing participation in the financing of feature films and original product to feed the programming appetites of HBO and sister service Cinemax.

Fuchs, however, had no new deals to announce; the most recent HBO financing package, a half-equity share of the $20 million-budgeted Orion Picture *The Three Amigos*, was announced several months ago.

That left the door open for Viacom International's Showtime/The Movie Channel to raise some hoopla over its latest exclusivity move—a pre-buy deal said to be in the same ballpark as the $500 million five-year exclusivity pact with Paramount.

Viacom's new deal with The Cannon Group gives Showtime/TMC exclusive pay-TV—and significantly, pay-per-view—rights to more than 60 Cannon films through 1989 "and beyond," and gives Viacom Enterprises worldwide syndication rights. Yoram Globus, president of Cannon, said the value of the deal was in the "nine-figure" area—one educated guess was several hundred million dollars. The deal, however, does not include home video rights, the vaulted first window after theatricals.

The pact includes such recent titles as *Runaway Train*, *The Delta Force*, *Fool for Love*, and *Death Wish* versions III and IV. Viacom also gets lucrative syndication rights.

Future films included in the package star such box office heavyweights as Dustin Hoffman, Al Pacino, Diane Keaton, Michael Caine, Amy Irving and Anthony Quinn.

New twist on PPV. The pay-per-view aspect of the Cannon deal puts a new wrinkle in the already fierce competition among pay-per-view providers. Showtime/TMC's Viewer's Choice operation already has laid claim to a reach of a million addressable households, a number also touted by Jeffrey Reiss' Request Television, which leases satellite time to Hollywood studios and matches them up with cable system affiliates. Other PPV competitors include People's Choice, backed by MarketCorp Venture Associates, and Event Television, a consortium of major MSOs that has yet to launch.


TEMPO™

The question is, if Cannon is willing to grant PPV exclusivity to one PPV provider, will other studios follow suit? And if so, won't the PPV players with the deepest corporate pockets survive, while others who can't afford exclusivity deals find themselves shut out of the market for the hottest pictures?

A spokesman for Request TV said its executives would rather not speculate on such questions at this time.

As for HBO, Michael Fuchs long has expressed skepticism about the viability of PPV, even though HBO is quietly servicing about a dozen systems with standalone PPV operations, supplying product via video tape bicycling rather than on satellite. But with Showtime/TMC's aggressive moves on acquiring PPV rights, the feeling is that the Time Inc. unit will have to respond to the challenge—and soon.

An HBO insider, however, notes that the PPV universe is still rather small, no more than 9 million addressable homes. He also notes that the business appears to be impulse-driven—but that impulse ordering capability is still very rare. "We feel we have some time before we have to jump in," the insider says.

As for the Viacom deal with Cannon, the source notes that home video rights are not included, and that the lucrative first home video window, in the opinion of HBO, considerably diminishes the value of very high ticket exclusivity deals.

Nick gears up production

Nickelodeon, the cable network for kids, is going back into the original production business.

The unit of MTV Networks Inc., now a Viacom property, in its early days was noted for its entertaining, thoughtful, original productions. But in the past two years, it's concentrated more on acquisitions, coproductions with Canadian Broadcasting Corp., and on creating a pop-flavored, irreverent, with-it environment—changes that appeared to accompany the advent of commercial advertising on the channel in 1983. Shows addressing social issues like livewire, got bumped from prime hours in favor of acquired cartoons and series.

But now the service is developing three strip show concepts on its own, according to Gerry Laybourne, programming vice president. One is a kids' game show; the other two are under wraps. Also, Nick is developing four pilots for sitcom and adventure-comedy series. The pilots should test-air this fall, with a decision later on whether to pick the shows up.

There's even talk of integrating the daytime Nick and Nick at Nite, the service's evening block aimed at the yuppie "TV generation," into a family channel a la Disney. And there's even talk of converting to pay—although Laybourne says no one has said anything to her about it, and it "makes no sense to me."

New programming twists

Some interesting programming moves among cable programmers:

MTV continues to expand its fare beyond music videos with the addition of a new program entitled *120 Minutes*. The weekly two-hour show, which premiered March 10 at 1 a.m. ET, features segments on new bands, their music, and lifestyle trends. While videos of newly discovered acts will anchor the show, it also will feature news, tour dates and interviews with artists. While no syndication plans were announced, insiders say they won't be surprised if the two-hour block is made available for broadcast syndication after an initial MTV window.

MTV recently began running more feature films, a longtime habit of USA Network's *Night Flight*. A recent Sunday night featured an Alan Freed camp classic from the early days of rock 'n' roll.

At sister service Video Hits One (VH-1), the pop video rotation is now being broken on Saturday nights at 9 p.m. to feature a three-hour block called *New Visions*, highlighting jazz and "new age" music.

Dance show on USA. Also new on the teen beat: *Dancin' USA*, a weekly, one-hour dance series on USA Network that debuted Saturday, April 6, at 6 p.m. ET. This "Saturday night dance party" appears to be closely modeled after the indomitable *American Bandstand*, and even emanates from the original home of *Bandstand*, Philadelphia. But while *Bandstand* was produced at the old WFIL (now WPVI), this version comes from the studio's of Taft Broadcasting's WPHL(TV). Guest dancers will come from area high schools, another harkoning back to *Bandstand*.

At all-sports ESPN, plans are afoot to focus on high school sports from around the nation, via affiliate arrangements with more than 100 broadcast stations. The stations will provide the local coverage, which ESPN will insert into its *SportsCenter*. ESPN is calling it the "Eyewitness Sports Network." ESPN also has commissioned a series called *The Magic Years in Sports* from the Corporation for Entertainment and Learning. The show, to debut in June, will feature historical clips as well as interviews.

In a sociological vein, ESPN also is considering a series of segments tentatively entitled *Sports and Society*. These vignettes, to be produced in-house, would examine sports' role in contemporary society, focusing both on problems such as drug use and positive values such as the character-building aspects of sport, according to ESPN president William Grimes.

On the pay side, The Disney Channel restructures its weekly programming format in May, scheduling regular series in an expanded primetime block from 6–11 p.m. ET. During the period, the channel will present different episodes of exclusive series each week in an effort to cut down on the perception of repeats and to build up viewer loyalty. The channel also will feature five movie offerings each day, with a new late movie at 11:30 p.m. for adults. Disney Channel president John Cooke promises new first-run, network-quality sitcoms for the fall.

-31 OCT. 1986.
alais des Festivals

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More people should hea this man's music.

Close to a thousand stations broadcast some classical music. But only a few hundred really specialize in the classics.

Those who feature concert music find it attracts loyal, responsive listeners like no other format . . . plus top-quality, long-term sponsors. And, for public stations, it also brings maximum listener contributions. Classical demographics are the best there are!

But why don't more stations focus on fine arts?

One reason, we're convinced, is that it's so hard to program well. After all we're not talking about a playlist of current hits. These are the greatest hits of the past 500 years. You need a library the size of a racquetball court to give your program director the musical depth that's needed. Not to mention *finding* a program director, and announcers who know the music and can handle a dozen languages. You get the picture.

This is why WFMT is forming **The Beethoven Satellite Network:** a live, fully-packaged, 24-hour classical format delivered through Westar IV.

Programming will originate in our state-of-the-art Chicago studio complex, offering sound quality to please the most avid audiophile. Daypart segments created for this brand new satellite service will draw on the considerable resources of our award-winning station. WFMT's library, for instance, has more than 40,000 records, compact discs, and tapes—music we've been collecting for 35 years.

Loyal, responsive listeners

But the sound will be *yours*, depending on how much local programming you wish to include. If you need 24 hours of non-stop classical music, fine. If you want to cut away for local drive-time programming, that's no problem either. And if a local bank wants to underwrite a midnight to 5 am classical strip, just set up your carts, lock the door, and leave it to us. From total automation to a self-contained weekend block, Beethoven is

A live, 24-hour classical format

We'd like to help.

Flexible to meet your needs

flexible to meet your station's individual needs.

The Beethoven Satellite Network will be live *and* lively. Not recycled tapes and canned announcements. No pompous and disembodied voices. If it's Bach's birthday or the first day of Spring, you'll know it. We'll even have national and international news headlines.

Spontaneity, consistency, professionalism

Spontaneity, consistency, professionalism. That's what makes **The Beethoven Satellite Network** different from any previous classical music service. And more enticing to listeners and sponsors.

One other "first." We'll share with you our research and marketing know-how to help you sell classical radio locally. Advertisers are willing to pay a higher cost-per-thousand to reach this exclusive, upscale audience. We'll show you how to persuade them. There's even a national sales representative exclusively for classical stations.

Of course we know that to get your attention we have to reduce your costs *and* provide superior quality.

If you're not already playing the classics, we've also got to help you attract solid audiences, attractive revenues, and strong community acceptance.

If you're interested, let's talk. We'll be at both the NAB and NPR conferences. And at our telephones.

Beethoven and all of his colleagues are ready to be heard in your market. The profit can be yours.

How classical listeners compare

Average adult = 100

CLASSICAL LISTENERS	INDEX	CLASSICAL LISTENERS	INDEX
College graduates	332	Buy cross-country skis	390
Professionals	362	Use 4711 perfume	642
Income $35,000+	330	Own a sailboat	535
Own mutual funds	258	Use Westin hotel	323
Own a Peugeot	664	Have visited England	311
Drink Kirin beer	604	Use KLM airlines	683

SOURCE: MRI, Spring 1985

For more information call:

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THE BEETHOVEN SATELLITE NETWORK

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Radio Report

TV seen affecting spot, but trend said to be rising now

With spot radio down 3.5 per cent across January and February, radio rep chiefs point to evidence that the leakage is primarily from the top 10 markets, with Los Angeles taking the biggest hit, and that the beneficiary may well be spot television in these same major markets.

Ken Swetz, president, Katz Radio Group, says it looks to him like it's most likely "a shift of money from spot radio to spot television in the top 10 markets. Spending in many of our smaller markets is up." RER figures, in fact, do show a 5.6 per cent increase for combined January and February spot radio in markets below the top 50.

And Mike Bellantoni, executive vice president, Torbet Radio, notes that among the top 10 markets, New York was up, "and Los Angeles suffered the deepest loss—about $1.1 million. If radio in the top 10 markets had stayed even with last January and February, spot radio would have stayed even. But March showed improvement; all our offices are bullish for the remainder of the year."

Temporary slowdown. At McGavren Guild Radio, Peter Doyle, vice president, New York regional manager, figures the slowdown can "probably be blamed on the allure of cheaper TV, combined with late placement by a number of radio accounts." But he's also confident that the slowdown was temporary, because, "After some false starts in first quarter, there was finally an explosion of business in just the past three or four weeks that convinces us that we'll see an average increase of around 8 or 9 per cent for the year as a whole, though some markets will be better, and others won't do that well."

Katz' Swetz points out that spot TV "did so well in January that your own *Business Barometer* showed a 16.4 per cent increase, while spot radio, industry-wide, was down primarily in the top 10 markets."

Selcom/RAR gets new name

Select Radio Representatives is the new name for Selcom/RAR, a short lived name adopted when Blair Radio acquired Selcom and Torbet Radio and merged Blair/RAR and Selcom. SRR president Frank Oxarart observes that while this merger started "with two fine companies, each with its own identity, coming together, the original name might make it appear that one company swallowed the other. The new name sheds that appearance."

The "Select" part of the new name signals the firm's change of direction to concentrate on some 80 of its stations in the top 75 markets accounting for 80 per cent of all national radio spot dollars. The reverse of that coin is that to concentrate on this shorter station list, another 80 stations will be obliged to leave the SRR nest and seek representation elsewhere.

Warns on seasonal ratings

Katz Radio Research has expressed concern over Arbitron sweep ratings that, in recent years, at least, show higher PUR (persons using radio) levels in the spring numbers as compared to the fall data. The concern was aired in Katz' latest study of national format averages, covering the fall '85 sweep of the ratings service.

In a memo to Katz stations recently, Gerry Boehme, vice president and director of radio research, declared: "The effects of this statistic cannot be overstated; stations lose significant quarter-hour strength in spring-to-fall comparisons, leading to lower ratings impact and higher costs-per-point."

It is not likely that the drop in listening is caused by Arbitron methods, explains Boehme, since the ratings company uses the same methodology through the year. He speculates that the figures could reflect, as they seem to, seasonal differences in listening, or, possibly, listeners filling out their diaries more faithfully simply because they listen more or for some other reason, such as the weather.

Formats noted. The Arbitron data showing drops in listening during the fall is move obvious in CHR, adult contemporary, country and MOR formats, Katz found, but is generally true for all formats.

Katz has been producing the National Format Average studies since 1980. In the latest study, the research people analyzed 2,012, stations in 121 Arbitron markets.

In the latest study, Boehme, in singling out the above-mentioned formats, compares average weekly listening to these formats over half a dozen spring/fall sweeps, starting with spring, '83. For example, the FM CHR figures are, spring, '83, 7:50 hours; fall, '83, 7:16; spring, '84, 8:06; fall, '84, 7:31; spring, '85, 8:18; and fall, '85, 7:18.

The latest format study also confirms, Boehme points out, a pattern which has been showing up for the past few years: certain formats are skewing older. Chief among them is FM AOR, notes the Katz radio research chief. In spring, '83, teens accounted for 24.4 per cent of the average quarter-hour audience to AOR. In the fall, '85, sweep, the share had fallen to 14.1, while the 25–34 share climbed from 26.1 in spring, '83, to 36.5 in fall, '85.

WFMT satellite service

WFMT Inc., which owns WFMT(FM) Chicago fine arts station, is forming a live, fully-packaged, 24-hour classical radio format, to be called The Beethoven Satellite Network. According to Ray Nordstrand, president of WFMT Inc., the service will start no lat-

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RADIO REPRESENTATION DIVISION
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er than this September, and will be delivered through Westar IV. Nordstrand notes that programming will come from WFMT's Chicago studio complex, but will be separate from the station's format.

Retail motivator

The Radio Advertising Bureau's newest weapon in an expanding local/retail sales development effort is Christo Jackson, former Sears, Roebuck media director and onetime Newspaper Advertising Bureau retail vice president.

Jackson, now a consultant, will conduct one of RAB's management workshops held during the NAB and then will go on the road in late April, May and June, presenting regional retail media seminars in San Francisco, Los Angeles, Dallas, Chicago, Washington and New York.

At NAB, Jackson will remind radio station executives that the medium only receives 11¢ of every local ad dollar, compared to 54¢ for newspapers, 22¢ for direct mail, 12¢ for TV and 1¢ for outdoor.

Specific suggestions. He then will give them some suggestions on how to improve their local/retail business. Among them:

- "Subscribe to trade journals and circulate them appropriately among your salespeople—ones like *Supermarket News, Chain Store Age, Women's Wear Daily, Discount Store News*, and a bunch of others."
- Speaking of a trend toward specialization among retailers, he advocates relating it "to radio's ability to specialize audiences. Sears merchandising vice president Joe Reddington said three weeks ago, 'The specialty store allows you to target a specific customer, and it gives you the potential to open a large number of outlets.' Now, just substitute the word 'radio' for 'specialty store.' Haven't you summarized in one pithy, cogent, terse phrase the gut strength and advantage of your livelihood, the ability to target specific audiences?"
- Sending salespeople to trade shows "in a business category where radio does an excellent job of reaching your target audience. There are national conventions and regional trade shows for consumer electronics, automotive parts and accessories, hardware, home centers and furniture, banking and many more."

Retail among big spenders

Five national retailers made the Radio Network Association's list of top web spenders for 1985. At the head of the list is Sears Roebuck, which, according to RNA president Robert J. Lobdell, "is using the national radio networks to advertise item and price in a series of events of limited duration." By way of comparison, the Broadcast Advertisers Reports top-10 list for the year (*Radio Report*, March 17) placed Sears second to AT&T, with $20.8 million in expenditures vs. $24.9 million. On the RNA special tabulation by Ernst & Whinney, AT&T is third.

Other retail accounts in RNA's top 25 are Cotter & Co., parent company of True Value Hardware, fifth; K-Mart, 10th; Goodyear Tire & Rubber, whose expenditures for its service centers placed it 15th; and Tandy Corp., ranked 18th on the basis of advertising for its Radio Shack Division.

Placing commercials for 12 different products, Warner Lambert was second largest spender. Other non-retail accounts listed in descending order of expenditures are: Anheuser Busch, Triangle Publications, Procter & Gamble, General Motors, Nabisco Brands, Whirlpool Corp., Ford, U.S. Government, Kelly Services, Chesebrough Ponds, State Farm Mutual Insurance, IBM, M&M Mars, Schering Plough, Harris Corp., George A. Hormel, Sterling Drug and Florists' Transworld Delivery Association.

Top stations eroding

The two leading stations in the top 10 markets will continue to lose audience share through 1992, but their rate of decline will level off during the next several years, according to an analysis by Katz Radio Group. It reports that the average Number 1 station will have a 7.1 audience share (persons 12-plus, 6 a.m.–midnight) in 1992 vs 9.9 in 1977 and 8.8 in 1985, and that the average Number 2 station will have a 6.4 vs 7.6 in 1977 and 7.1 in 1985.

Meanwhile, it shows, in its 1992 projection, stations ranked third through 10th to be tightly bunched, with six stations tied at a 4.8 share. While declines are projected for the top five stations in a given market, the sixth ranked station is shown as staying even, while moderate gains in share are projected for those ranked seventh through 12th.

In this analysis, Katz used a least squares exponential curve to project its data. This formula employs a standard projection technique designed for Katz by Market Statistics. Katz concludes that the leveling off of differences in audience delivery will mean an acceleration in price competition between the major players and a greater choice of stations for advertisers. The rep firm advises stations to "develop a new selling approach in which clients and prospects are far less inclined to measure value based on CPMs and CPPs." The top five projected rankings are shown below in order, by year.

Projections of audience shares

Persons 12+, 6 a.m.–12 midnight, 1985–1992

1986	1987	1988	1989	1990	1991	1992
8.2	8.0	7.8	7.6	7.4	7.3	7.1
6.9	6.8	6.7	6.7	6.6	6.5	6.4
5.9	5.8	5.7	5.6	5.5	5.4	5.3
5.6	5.5	5.5	5.4	5.4	5.3	5.3
5.1	5.1	5.0	5.0	5.0	4.9	4.9

Source: Katz Radio Group

Radio Business Barometer

Spot radio down for second month

February was another down month for spot radio. Radio Expenditure Reports data show a drop of 3.7 per cent in rep billings for the month compared with February, '85. This follows a drop of 3.3 per cent this past January.

February billings, reports RER, came to $49,814,600, compared with $51,731,600 in February, '85.

Unlike January of this year, during which the four market-size groups exhibited a wide range of year-to-year changes in billings, the changes in February remained within a narrow compass. All four groups were down, but the percentage drop range (from highest to lowest) was less than four percentage points.

The top 10 markets, whose January billings took a steep dive from 1985, were down a more modest 2.4 per cent in February. The average for the 11th-to-25th markets showed a dip of 6.3 per cent. Among the 26th-to-50th markets, the drop came to 4.7 per cent, while the 51st-plus markets declined 2.9 per cent.

In dollars, the '86 vs. '85 February figures were as follows: top 10 markets, $19,060,000 this year vs. $19,536,200 last year; 11th-to-25th markets, $10,009,600 in '86 vs. $10,680,300 in '85; 26th-to-50th markets, $7,699,600 last February as compared with $8,078,200 during February last year, and 51-plus markets, $13,045,400 in February, '86 vs $13,436,900 in February, '85.

Year-to-date figures for the four market groups came to these totals: top 10 markets, $31,849,800 for the first two months of the year, vs. $34,985,900 for the January-February period last year; 11th-to-25th markets, $17,981,800 this year as against $18,787,600 last year; 26th-to-50th markets, $13,590,900 in '86 vs. $14,095,600 in '85, and 51-plus markets, $23,930,300 in January-February, '86 and $22,668,000 during the corresponding '85 period.

The increase for the 51-plus group reflects their sizeable rise scored in January, the only hike among the four market groups. The smaller markets actually increased billings 17.9 per cent in January, rising from $9,231,100 in '85 to $10,884,900 in '86.

Percentage increases for the four market groups covering the first two months of the year are: top 10 markets, down 9.0 per cent; 11th-to-25th markets, down 4.3 per cent; 26th-to-50th markets, down 3.6 per cent, and 51-plus markets, up 5.6 per cent.

Uncertainty in air

In a review of spot radio recently reps had various explanations for the slow start this year (see *Radio Report*, March 3 issue). But the gist of the explanations came down to blaming competitive media: barter TV networks, line radio networks and spot TV.

Will the remainder of the year make up for the first two months? Obviously, it's too early to tell, and this uncertainty is accompanied by uncertainty in other broadcast media, where spending could affect spot radio. For example, buying on the barter TV networks upfront.

National spot **−3.7%**

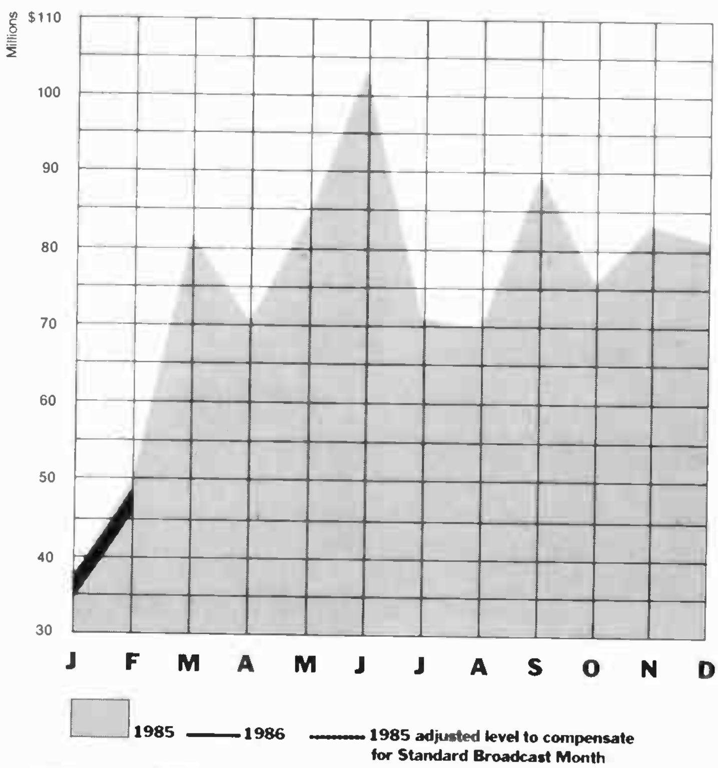
(millions) **1985: $51.7** **1986: $49.8**
1985 adjusted: $51.7

Changes by market group

Market group	Billings (mils.)	% chg. 86–85
1–10	$19.1	−2.4%
11–25	10.0	−6.3
26–50	7.7	−4.7
51+	13.0	−2.9

Source: Radio Expenditure Reports

February



Why Edens Broadcasting chose a rep instead of a conglomerep.

By Gary D. Edens, President and Chief Executive, Edens Broadcasting

Gary Edens (left), shown with Jerry Schubert, President, Eastman Radio

We pride ourselves on broadcasting quality programming, and needed a rep that knew how to sell more than just numbers.

Eastman captures the unique character of our stations—without reducing them to mere statistics in a ratings book.

Eastman tells the whole story.

We've got nothing against numbers, but our award-winning stations have personalities and formats that stand out in a sea of statistics.

KQYT in Phoenix pioneered the easy listening format. KOY, Phoenix, has won more news awards than any other Arizona station. Tampa's WRBQ launched the Morning Zoo,™ becoming one of America's 10 most admired stations. In Richmond, WRVA is celebrating its 40th year with the same morning man. And Richmond's WRVQ dominates the contemporary format with its 200,000 watt signal.

These are stories worth telling, and Eastman makes sure they're told.

Eastman sells radio. Only radio.

A lot of reps use radio sales as a training ground for TV. Not so at Eastman.

Their reps specialize in radio—only radio. They take the time to get to know our stations, earning a high share of national dollars by selling the quality that numbers alone can't reach. In Tampa, for example, Eastman just produced the highest single month of national billings in that station's history.

Eastman treats us like family.

Eastman's never let us down by treating radio time as commodity trading. They're big, but they don't sell "supermarket-style" like those conglomereps. They treat us like family.

We've grown with them, and we're growing because of them. As long as they keep that momentum going, it's Edens and Eastman forever.

EASTMAN RADIO

Dress up a time slot.

With a dignified air. "Mutual of Omaha's Wild Kingdom", the class of its kind, now in its record-breaking 25th year, averaged a 9.7 rating and 25.7 share. (February '85 Arbitron, 50% of rated markets.)

To add this reputation in family programming to your schedule, call Hal Davis, 402-397-8660, or Bob Aaron, 804-481-4727.

MUTUAL OF OMAHA'S WILD KINGDOM

Starring: Jim Fowler
Featuring: Peter Gros

Television/Radio Age
April 14, 1986

The FCC initially decided not to pursue any effort to revive must-carry after the court struck it down. So it is expected to look at proposed solutions with a jaundiced eye.

FCC '86: WINDING DOWN

Remaining major item is decision on must-carry, expected sometime in May

The Fowler years: action completed on most big issues

By HOWARD FIELDS

Sometime in late spring or early summer, an era of sorts will have ended at the Federal Communications Commission. Except for some issues yet to be raised and the proposals to improve the state of AM radio, as presented to the commissioners April 3, the commission will have completed action on all of the major issues it has faced in its five years under the leadership of chairman Mark Fowler. Even the vaunted clearing of the "underbrush" regulations has been completed.

Fowler has received praise from all sides, even his detractors, for his deregulatory efforts. With that major focus of his job completed, he then faced a decision about whether to seek reappointment beyond the June 30 expiration of his current term.

Mark Fowler

In an interview conducted before he made his decision, he said, "I think the factors will be personal ones, and how much of the issues that I really care about have been dealt with." Those that remain in the broadcast area that he cares about are in the hands of the courts and Congress, not the FCC. They are the statutory provisos that require the comparative renewal process and "content regulations," such as the equal-time requirements.

"In June, I will have been here over five years, which is probably one of the longest stints that any chairman has served, certainly one of the most turbulent periods in the commission's history. It was probably one of the most exciting, if not the most exciting periods," he said. And he feels he has accomplished pretty much what he set out to accomplish during his chairmanship.

"We've consistently downsized the agency, eliminated unnecessary paperwork, and tried to become more efficient in the way we process applications and how long it takes for them to be processed," Fowler points out. "I think the record is a good record. I don't hear any broadcasters complaining. In fact, I hear them compliment us on how efficiently the agency runs generally—if not perfectly. But I would say the team we have here has the agency running as efficiently as probably it

James Quello

Mimi Dawson

Dennis Patrick

"We've consistently downsized the agency, eliminated unnecessary paperwork and tried to become more efficient in the way we process applications and how long it takes."

Mark S. Fowler
Chairman
Federal Communications Commission

has ever run in its entire history."

The commission does expect to be concerned with one other broadcast issue for at least the next year. It is taking comments through July 1 on a staff report on myriad actions that can be taken to make AM radio more competitive. Based on those comments, the staff expects to be able to have some actual proposals to make to the commissioners by Labor Day, with possible action to follow.

Must-carry decision

The one era-ending item is to be the commission's decision on must-carry, a decision it would rather not have made, but which was thrust upon it by congressional pressure to do something about the U.S. Court of Appeals declaration that the must-carry rules violated the First Amendment rights of cable. The same congressional pressure forced the cable TV industry to talk seriously with the broadcast industry about a compromise, now one of the possible solutions before the FCC.

The agency initially decided not to pursue any effort to revive must-carry after the court struck it down in the Quincy Cable case. Its decision followed the Fowler commission's predilection to let the marketplace work its will without government interference. So the panel is expected to look at proposed solutions, including the industry compromise, with a jaundiced eye. Comments are due by April 25, with a decision to follow a month or two later.

Commissioner Dennis Patrick sums up the general feeling at the agency about what are the court-imposed principles that have to be followed by the commission in reaching a decision:

"The first would be that there is a compelling governmental interest at stake. Second would be that a rule imposed by the government would be necessary to achieve that interest, and third, that the rule be no wider than is necessary to achieve that interest."

The compromise worked out between the broadcast and cable interests and presented to the FCC to consider might have its greatest difficulty in meeting the second criterion, Patrick says. "The reason I think that may be an issue is because many presumably in a position to know have suggested that that proposed compromise basically would require cable companies to carry those signals which they would likely be disposed to carry anyway."

He adds, "If that's the case, the burden is on the proponents of the rule to show why it is necessary, therefore, for the government to impose the rule."

Commissioner James Quello, who was the lone voice on the FCC in favor of a commission appeal of the Quincy decision, notes another issue often mentioned by the commissioners—the failure by the compromisers to include public television in their talks or even to give it special consideration in a must-carry equation. "Public broadcasting may not always be able to come up with even the 2 per cent, but it's a distinctive service, it's been licensed, preferably not commercial. I think they may have a separate claim to carriage, whether they reach a 2 per cent figure or not."

He signals his own position about the outcome: "This controversial court decision, in my opinion, gave cable disproportionate power .... Here they're giving cable full First Amendment rights and they still are primarily a transmission pipeline service."

Patrick and the other commissioners don't go so far as to state it, but the logical conclusion from their remarks about the difficulty they face in having to make a decision on an issue they initially had chosen to drop is that if the agency decides on a new must-carry rule, it won't turn out as the compromise—or an earlier one presented by the Association of Independent Television Stations—envisioned.

The National Cable Television Association had made the argument from the first day after the Quincy decision last summer that there is no compelling governmental interest involved. In order to comply with congressional pressure to reach a compromise with broadcast interests, it agreed to a statement that "Must-carry is necessary to protect the public interest in a reasonable quantum of free television being available to the public." But the NCTA still doesn't really believe that, since it argues that that amount of signals would always be available as a sensible way of keeping subscribers.

What might be left out of voluntary carriage are the public television station signals and other small UHF stations and less successful independents. Since most of those don't garner a 2 per cent share, they wouldn't meet the required-coverage criterion of the industry compromise. Since federal policy has been to foster diversity, public tele-

"Public broadcasting may not always be able to come up with even the 2 per cent, but it's a distinctive service . . . I think they may have a separate claim to carriage."

James H. Quello
FCC Commissioner

vision and UHF stations, and a government edict would be necessary to get them carried, the FCC decision may apply only to those types of stations. And the third condition outlined by Patrick would prevent the agency from widening that decision to include affiliates and major independents who would be protected by the compromise.

Fowler adds to the issue, "The question is whether a narrower, more targeted set of rules could be implemented that would pass constitutional muster .... It's all well and good that two great industries have reached a consensus on a proposal," he adds, but "ultimately that question will be looked at by a court if we were to answer in the affirmative."

He acknowledges that congressional pressure will play a part in the commission's decision. That pressure is to come up with an answer, because Congress cannot abide a cable industry totally free of at least some must-carry obligations.

Constitutional restraints

Patrick notes that Congress may want certain action out of the commission and normally may force its will on the agency, but "both the Congress and the FCC are subject to the same constitutional restraints. I admit that exactly what those constitutional restraints are is subject to interpretation, and reasonable minds can differ on that."

In addition to the court strictures, Fowler agrees, the FCC will have to consider the constitutional questions involved and the public-interest standard. That includes the question, he says, of "Does it [any solution] serve, for example, the interests of cable subscribers? Some 40 million households that subscribe to cable have a stake in this and we are obligated to give very heavy weight to public interest. In this case, that is one of the most major components."

Quello adds that a look at the compromise shows that "common sense dictates that they [cable] will carry the three networks, the one leading independent and probably the leading public TV station, maybe as many stations that they will have to carry." Beyond that, he says, the effect of the compromise is to leave carriage up to the cable operator.

Philosophically, though, Quello looks at the agreement as "maybe the best that people can get. It represents a concession by cable, because right now, in the courts, there's no must-carry .... All the muscle's in the cable's court."

He adds, "I would have a tendency to say that one public station in every city should be carried, and if there's a second one that has different types of programs, I would give it a very high priority." If there is a third, he adds, it may have a legitimate claim on one of the public access channels.

"I don't consider it [comparative renewal] underbrush, because I consider it very important. I don't necessarily find the statute that constraining."

Mimi Weyforth Dawson
FCC Commissioner

Like Quello, Commissioner Mimi Dawson has long been a supporter of must-carry because "it has provided a way for new entrants to have some viability in a video market." Her opposition to appealing the must-carry decision and attempting to redraft the rule was based on her differences of opinion with the other commissioners.

"My concern was that if we brought it back, we might have a must-carry rule that was crafted to take care of those who were already taken care of and not necessarily take care of the newer entrants," she says.

If she had the power, however, she would go farther than just drawing up a new must-carry rule. She would link it with the compulsory license, which is beyond the commission's jurisdiction. One way the FCC could handle that is to agree on a legislative proposal to present to Congress to take care of both issues as a package.

Looking at the commission as a whole, absent any outside pressures that are, in fact, present, there would appear to be a split over whether to sustain cable's victory in the Appeals Court. Fowler believes in full First Amendment rights for the electronic media, and Patrick is a strong supporter of that view. Dawson and Quello, who is a former broadcaster himself, favor having a must-carry rule.

'Underbrush' is cut

After the commission acted in March to eliminate its rules governing fraudulent billing practices by broadcasters, network clipping and combination advertising rates, James Hudgens of the Office of Plans and Policy told a news conference, "That was the 27th underbrush item, and there isn't much left to hack." His boss, Peter Pitsch, added, "A lot has been done, and the first major bites have been chewed and swallowed."

A major effort under the Fowler commission has been to eliminate the dozens of rules on the FCC books that have long outlived their usefulness. Called the "underbrush items," they were not major by themselves, but getting rid of them has eliminated a mass of paperwork for the agency and regulated businesses.

To do so, each bureau in the commission went through the rules over which it had jurisdiction and studied them for possible application in today's world. Many, such as the rule against fraudulent billing practices, had not been used in more than a decade. It and others also were covered by laws lodged elsewhere in the government. So the staff made a case for eliminating them from the books and presented them to the commissioners, who complied.

Hudgens and Pitsch note, however, that they are not closing the door on further underbrush items that may have been overlooked or may be obviated by some other law or industry activity.

One underbrush item that some on the commission consider major is an expected proposal to do whatever the agency can do under the statute to ease the comparative renewal process. Getting Congress to drop the process from the law books entirely has been a primary thrust of the Fowler commission, but without success.

Dawson is leading the charge on the comparative renewal question. "I don't consider it underbrush, because I consider it very important," she says. "I don't necessarily find the statute that constraining. I think there is a great deal of reform that we can do within the statute."

Some steps she believes the FCC could take is "to take the renewal expectancy further if the applicant com-

"As technology makes new services available, then new issues are presented to the commission . . .

The mass media marketplace [already] has undergone vast fundamental changes."

Dennis Patrick
FCC Commissioner

plies with the statute and commission policy." If those conditions are met, she says, "there ought to be a renewal."

She also would have the commission do something about the point system by which the agency decides among original applicants for a license. Dawson would like to see the "lotteries of last resort" used more often.

"Basically, what this commission does is force its decision between two applicants when, indeed, there may not be a difference which impacts the public interest," she says. "If there is not a difference that impacts the public interest, then it seems to me that we ought to quickly move to a lottery.

"I find that dragging out the hearing process and the comparative process for several years in a painstaking effort to find a distinction between two applicants disserves the public and it disserves the applicants who may not have the money to go through that lengthy procedure."

Legislative route

Fowler has chosen to press the legislative route in tackling the comparative renewal, proposing it to every Congress, but without success. Allowing someone to challenge an incumbent's license "is a terrible provision," he says.

"It is unwise. It is bad policy and frankly borders on being kind of a socialist or Marxist notion that somebody can come in and take somebody's business away because of a promise they've made, even if the other person has followed all of the rules."

But aside from legislation, Fowler says he is interested in "tightening up our procedures so that we don't have shakedown artists extorting money from people when they file petitions to deny, or threaten to file petitions to deny."

Quello adds, "The idea that at license renewal time, I can come in and say you are not doing as good a job as I can do and I'm going to challenge—I doubt if there's any station, even the best one on the air today in programming, that I can't outdo on paper without actually broadcasting." That type of provision, he says, doesn't even apply to a utility or a monopoly.

On the comparative renewal issue, the commission is united. Patrick adds, "The commission, it seems to me, at some point in time is going to have to deal with the question of comparative renewals." In fact, a notice of proposed rulemaking (NPRM) has been proposed to modify its rules, in response to several court cases in which judges have been critical of the agency for not articulating what it wants from an incumbent in return for renewal expectancy.

While the NPRM has been pending, more court cases have been brought. William Johnson, who is heading the day-to-day operation of the Mass Media Bureau while its chief, James McKinney, is preoccupied with international space communication negotiations, says the bureau hopes to have something that the commissioners can agree on, within the constraints of the statute, by midyear.

Johnson also notes another area of consideration the commission may get into. "There's a lot of background noise you hear in the legal community and in the broadcast community that the commission's processes have been used in ways that were never intended. It involves filings in low-power TV (LPTV): copying applications, people swearing they have a site on order, but where they don't actually have a site," and comparative proceedings where women or minorities are being listed as owners when in fact they are not.

"We have people collecting all of those facts to see if there is any way the commission can cleanse the process," he says. "At least there is a feeling that there is a lot of fakery going on."

It usually comes up in application matters, he adds. "There is some concern that people are participating in the process so they can be bought out. What we have is people who feel there's no harm in getting involved in the process and, if it costs them $1,000 to file an application, someone will offer them $5,000 to get out. It's very hard to deal with, because they're also probably saying, 'And, so if I win, that's good, too.' It's not clear that they just got in to get bought out."

Within the bureaus there also are underbrush lists, and some that the Mass Media Bureau is working on include getting rid of some of the technical regulations that tell an engineer how to do something rather than just setting a standard and letting the engineer figure it out for himself.

Channel switching

One other potentially major issue before the commission is being allowed to die, if that is what the broadcasting community wants, or to be revived later on if the interest moves in that direction.

The FCC received petitions for two types of switches of channel positions, one involving a UHF channel for another UHF channel, and another involving a UHF channel for a VHF channel. Both involved a public broadcasting station now holding the preferred channel.

The commission decided to allow switches within the same frequency, but took no action on the U-V swap. The idea appeared a good one when it was broached, since the VHF public station could reap millions of needed dollars by selling its channel position to the commercial UHF.

But when the FCC put the idea out for comment, it got such an onslaught of negative reaction from a broad cross-section of interests, it decided not to address it at all. In effect, the U-V proposal has been left in limbo and could be taken up again if sentiment changes.

Dawson explains, "There are a lot of implications to U-for-V that made the commission feel that it was not ready to act. I think we have seen enormous change in this marketplace in a very short time frame, and while I don't rule out U-for-V, I don't think it hurts at this point to let the marketplace settle down."

Fowler says the docket is still open, but "we're not prepared to act at this time. The Congress has told us it wants us to study this more carefully, and that, it seems to me, requires us to move more cautiously. The U-for-U and V-for-V was pretty easy to resolve. The

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Commerce chairman has generally shown little interest in broadcast issues

Danforth's 'free time' bill could ignite Senate fireworks

So far as broadcasting issues are concerned, this is a lame-duck year in Congress. That situation, the fact that there are fewer than five effective months left in this Congress, and the legislative branch's preoccupation with such matters as the budget, taxes and re-election, bodes for a quiet year. But the industries affected by the issues also can take much of the credit, or blame.

One of the lame ducks is Sen. Barry Goldwater (R-Ariz.), chairman of the Senate Communications Subcommittee, who also is serving as chairman of the more time-consuming Armed Services Committee, and who is preoccupied with his wife's health problems. Goldwater is retiring after this year. The other lame-duck is his House of Representatives counterpart, Rep. Timothy Wirth (D-Colo.), chairman of the Telecommunications Subcommittee. Wirth is giving up his House seat to run for the Senate.

With Goldwater preoccupied with other matters, Wirth devoting his time and efforts to a Senate race, and the rest of Congress concerned with other matters, there isn't much time for much action this year on broadcast issues. Actually, there never was to be much of a role in this, the 99th Congress.

Aside from the possibility of some congressional reaction to the Federal Communications Commission's eventual decision on the must-carry issue, the only threat of fireworks this year comes from the fact that 1986 is an election year. Those seeking re-election are concerned about the way some of their opponents are expected to take advantage of the broadcast media, and the way the media might affect the outcome of some close elections.

Some of the quiet on the Senate side of Congress stems from the fact that in this Congress the Senate Commerce Committee is being chaired by Sen. John Danforth (R-Mo.) who, unlike his predecessor, Sen. Robert Packwood (R-Ore.), has demonstrated little interest in broadcast issues.

Still, an initiative by Danforth is one of those efforts that could spark some action. He received an inkling of how much controversy was involved when he raised the issue at a luncheon of state broadcaster representatives hosted by the National Association of Broadcasters during lobbying week.

If the broadcasters had visited Senate committee hearings during that week, they might have noticed a little ritual that takes place whenever a senator sits down or gets up from his or her seat on the panel. His nameplate is placed into position when he sits down, then immediately removed when he leaves. It is a new phenomenon in the Senate, designed to thwart photographs or video tapes of an empty seat behind the nameplate. Such pictures have been the fodder of negative political commercials and advertisements.

'Corrosive effects'

In his speech, Danforth told the state broadcasters, "Today's campaigns have devolved into a point-counterpoint of 30-second charges and attacks. Tracking polls monitor daily swings in voter attitudes. Focus groups gauge the impact of each commercial, and the modern campaign consultant stands ready to put commercials on the air or to pull them off in a matter of hours. It is hardly the stuff of political dialogue. But it works. It wins elections. But the corrosive effects of negative campaigning do not end with the election. Guarding against tomorrow's negative commercials has become today's preoccupation in Congress."

So, he said, he and Sen. Ernest "Fritz" Hollings (D-S.C.) ranking Democrat on the committee, introduced S-1310 last year to require that any negative statements made about a federal candidate in a commercial be made by the candidate's opponent or the candidate must be given free time to respond to the ad.

And if someone other than the candidate airs an ad in opposition to a candidate, the candidate again must be given

Senators John Danforth and Ernest Hollings introduced a bill offering a candidate free response time to negative statements made in TV ads by someone other than his opponent.

Danforth

Hollings

free response time.

Since the response time is to be given free, the measure would place broadcasters in the role of policing negative ads. But Danforth invited the broadcasters to obviate the need for his bill, commending to them a "white paper" issued by the NAB a few weeks earlier as "a thoughtful and responsible presentation of what you can do without any congressional action at all."

Following its new strategy to preempt legislative campaigns it fears may prove harmful to its interests, the NAB advised members in "The Role of Broadcasters in the Political Election Process" that as onerous and anti-First Amendment as suggested controls may be, "we are not common carriers and have every right to determine whether this material should be broadcast." (As the publication notes, the broadcaster has no right to restrict authorized ads in which the candidate appears, either through his voice or through his face.) Apply the same standards to political ads that are applied to product ads, the NAB suggests.

In other words, if broadcasters act between now and election day November 4 to refuse to air the type of ads now under attack in the Congress, they can obviate the need for legislation. There is a precedent for the effectiveness of that type of "pre-strike" action.

Beer/wine ban

At this time last year, the broadcasting industry faced an onslaught of grass roots efforts to get Congress to put some sort of limit on the advertising of beer and wine on radio and television. The outgrowth of an extremely strong campaign against drunk driving, the effort was unusually broad-based and threatened to be the type of campaign no member of Congress could afford to oppose. Most wanted to avoid a vote at all costs, even though the issue was aired in hearings on both sides of the Capitol.

The NAB, taking to heart the adage that the best defense is a good offense, took the role of leader in the broadcasters' campaign against drunk driving, which featured a highly visible barrage of public service announcements. That was all that members of Congress needed in order to duck the issue. Beer-and-wine legislation has languished since.

'Dead issue'

Beer and wine is now declared a "dead issue" on Capitol Hill, with the admonishments from those in charge that although the industry is to be applauded for its PSAs, it had better not slacken its effort, because Congress is ever-watchful. Rep. John Seiberling (D-Ohio), in fact, is attempting to revive the fight against beer and wine commercials.

Thus, the NAB first-strike action on negative political ads. In addition to S-1310 (negative political ads), there is S-1806, introduced last October by Sen. David Boren (D-Okla.), to amend legislation dealing with campaign reform. S-1806, which is co-sponsored by Goldwater, would adopt Danforth's bill (although Danforth opposes Boren's legislation) but is more general in that it seeks to control political action committees. Although the Borden bill is before the Rules Committee, which has held hearings on the bill, it may have to be submitted to the Commerce Committee if it seeks to amend the Communications Act.

Similarly, Danforth plans a set of hearings on his bill, in order to give the broadcasters a chance to comment in public. After Danforth's speech to state broadcasters, however, he got a sampling of that testimony when broadcasters stood up to suggest that the guilty party should have to pay for the time, not the broadcaster. Danforth responded, "I think that's worth considering." But they warned him that the net effect may be to reduce all political advertising.

At any rate, Danforth has repeated his earlier purpose in introducing the bill. It is, as an aide says, "As much to generate discussion and debate on the issues as much as to have legislation. It's on a pretty slow track."

In the House, where the issue is equally bipartisan, the sentiment is to wait to see what the Senate does before taking action. "We will see just how far the Senate takes that issue, how serious they are about taking action on it," according to an aide. Similar bills are before the House Telecommunications Subcommittee—HR-3351 by Rep. Stephen Neal (D-N.C.) and HR-3045 by Rep. Tom Lantos (D-Calif.)—but are not scheduled for action.

Poll closing times

Also on the political front, the Senate has before its Rules Committee a House-passed measure (HR-3535) that would establish uniform poll closing times for the continental United States in an effort to thwart the effect of early broadcast reports of election returns on areas where polls have not yet closed. The bill calls for all polls, except for those in Hawaii and Alaska, to close at 9 p.m. EST. The Senate was expected to follow suit.

That solution would keep Congress from attempting to control the output of TV and radio networks and stations. That option was studied and abandoned because of potential First Amendment conflicts. At the same time, members harangued about the

(continued on page 89)

Goldwater

Packwood

Sen. Robert Packwood, junior Republican on the Senate Communications Subcommittee, would like to replace Sen. Barry Goldwater as its chairman.

Broadcasters taking 'preemptive strikes' to prevent undesirable laws

Congressional mood: mediation, instead of legislation

When Rep. Timothy Wirth (D-Colo.) was first elected to Congress as one of the "Watergate babies" in 1974, the legislative branch was going through a change. It was attempting to wrest back from the executive branch some of the powers it had let slip away. As Wirth winds down his career in the House, Congress is going through another, more subtle change, best illustrated by the way the broadcasting industry now conducts itself on national issues.

In the 1970s, Ford continued producing the Pinto car and Firestone continued producing its Firestone 500 tires while battling court suits that challenged the products as unsafe. In the 1980s, Johnson & Johnson pulled Tylenol off the shelves as soon as the safety of the product was first questioned. In the 1970s, Congress tended to react with legislation first, talk second, Today, it urges the business community to work out problems so that legislation is not needed. And the community cooperates.

Broadcasting has been very much a part of the new procedure. At the behest of Congress, it was involved in talks with the cable and movie industries to get a solution to the copyright problem. With pressure from Congress, it and the cable industry sat down to iron out the still pending must-carry situation. And the cable and movie industries tried to work out a legislative package on their own copyright matters to present to Congress.

The congressional switch from the legislator role to that of a moderator has led broadcasters to adopt a successful stance of "preemptive strikes" against issues they feel may be harmful.

Last year's campaign against beer and wine commercials was so massive and widely supported that, in the earlier era, legislation would have been the likely outcome. Instead, in the current environment broadcasters were able to kill the issue with a stepped-up public service campaign against the abuse of alcohol, aimed primarily against teenagers. The campaign also includes drugs.

The same reaction has worked in other areas. When aspirin was targeted as a source of Reyes Syndrome in children, broadcasters responded with educational PSAs. Now that there is a threat of expanding Section 315 to require free responses to negative political commercials, the National Association of Broadcasters has issued a "white paper" advising broadcasters that they don't have to accept certain negative ads.

Record industry help

Broadcasters got help from another industry when the record manufacturers agreed to warn buyers of suggestive or obscene lyrics, thus staving off legislation that would have affected radio stations. The issue attracted a great deal of attention when a hearing was held, but the matter was dropped after the record industry responded and the NAB reminded broadcasters that what music is aired is their responsibility.

The broadcasting industry record so far is: no legislation controlling ads for beer and wine or aspirin; no legislation dealing with the broadcasting of certain music lyrics, and probably no legislation dealing with negative political ads. In another instance, Congress appears set to wait for the marketplace to work out problems associated with the scrambling of satellite signals. In one case involving a ban issue—where the broadcasters failed to launch a preemptive strike—they lost and smokeless tobacco commercials will be banned from radio and television.

John Summers, head of the NAB's Government Relations Department, has watched the new phenomenon develop during his years as NAB lobbyist. "What you're seeing here is a very positive, constructive response to the concerns of Congress, and I think that's a good thing."

Congress apparently is becoming convinced, Summers adds, that "when we think their concerns are legitimate, we can handle these things ourselves, rather than having legislation. It's one that can be abused by Congress, but I haven't seen any evidence of abuse yet."

He agrees that Congress no longer leaps to legislation when there is a problem, that it now prefers that industries work out the problems themselves and offer a solution to Congress. "I think this is definitely part of the whole thing and we're more than glad to respond that way until we see evidence of an abuse."

There also is a danger of asking broadcasters to do too much, he notes, but adds that in most cases broadcasters are aware of problems before Congress and "it's a matter of accelerating our involvement with a concern rather than addressing it for the first time." Drunk driving was an example of where broadcaster efforts preceded congressional concern, he points out.

"This isn't peculiar to the broadcasting industry," Summers says. "You're

As Rep. Timothy Wirth winds down his career in the House, the role of Congress is changing from legislator to moderator.

Telecommunications Chairman Timothy Wirth

R*ep. Edward J. Markey is considered to have the inside track for the chairmanship of the Telecommunications Subcommittee, the post now held by Timothy Wirth.*

Markey

seeing this in more and more industries—a very sincere effort, rather than to just dig your heels in and fight legislation—to try to be responsive to the concerns of Congress."

Music licensing, dishes

Two different House panels have responsibility for the two major broadcast-related issues on that side of Congress this year, one by TV interests concerned over the issue of music licensing, the other pushed hard by backyard satellite dish owners. Congress is trying to slough off the second, but may address the first, which has become the priority congressional item for broadcasters this year.

As it battled must-carry and other priority issues on other fronts, the NAB brought its state association leaders to town for their annual lobbying session, directing their efforts this time at the issue of music licensing. They persuaded two dozen members to add their names to lists of supporters of HR-3521, introduced by Rep. Frederick Boucher (D-Va.), a second-term member of the House copyright subcommittee, and S-1980, by Sen. Strom Thurmond (R-S.C.), chairman of the Senate Judiciary Committee.

At a mid-March hearing by the House copyright subcommittee, headed by Rep. Robert Kastenmeier (D-Wis.), the problem appeared clear, but not the solution. An estimated $100 million was at stake, according to Kastenmeier, who appeared to suggest throughout the hearing that the matter was a fight over money and not over anything that would affect the public interest. That stance would tend to suggest the panel would see little urgency in passing legislation.

The issue is the fairness of the blanket licensing for music that is part of TV programming. Broadcasters buy everything connected with the program except the music involved in it. They have to pay a separate percentage (as much as 2 per cent) of their gross income as a royalty to the music licensing agencies, even if the music on the soundtrack is an insignificant part of the program.

Although that royalty entitles them to millions of songs covered by the various licenses, TV broadcasters say the requirement is unfair, that when they buy *M*A*S*H* or *I Love Lucy* reruns, the purchase agreement should include the music rights, too. Instead, the music has to be handled separately. Music in movies is included as part of the whole when the movie is licensed to a theater, and music in TV programs should be, too, broadcasters argue.

Ralph Oman, Register of Copyrights at the Library of Congress, testified that "enacting a legislative fiat that proclaims 'Let there be source licensing,' is not clearly a fair or wise solution to the long-standing dispute over performance rights . . . ." He suggested the broadcasters had not made a serious effort to resolve the issue with the music industry and argued against legislation that failed to assure that the music composer is specifically protected. The matter better belongs in the courts, he said. "Their [broadcasters'] plight does not shock the conscience," he added.

M. N. "Buddy" Bostick, one of the owners of KWTX Broadcasting Co., Waco, Tex., and a broadcaster since 1927, told the panel that his station reflected the average American TV network affiliate. Sixty per cent of his broadcast day consists of network programs, 20 per cent is syndicated, and the remaining 20 per cent is news and other local programming. His profit is 20 per cent of his gross, but 2 per cent of his gross (and 10 per cent of his net) must be paid out to the music licensors such as ASCAP and BMI.

His gross and that of other stations should have nothing to do with how much a TV program costs him, he says. The music should be part of the package sold to the broadcaster, and the total price should be based on supply and demand, just as any other product in the marketplace, he and others argue.

The music industry, including the songwriters, publishers and licensors, accuse broadcasters of wanting "to use our music without paying for it." They argue that source licensing is available to be bargained for, but it is only one of several alternatives. The legislation being backed by the broadcasters would close out all other alternatives, they say.

The broadcasting industry argues that, in effect, blanket licensing is the only alternative now available, because no one will bargain with broadcasters for "source licensing" or any other kind

(continued on page 86)

R*ep. W. J. 'Billy' Tauzin is author of a scrambling bill designed to promote competition at a fair price for consumers.*

Tauzin

Broadcast attorneys are still busy, but they've seen huge shift in emphasis

Deregulation and the bar: big changes

Wingtips have turned into Reeboks, pinstripes into T-shirts, and briefcases into backpacks in room 239 of the headquarters building of the Federal Communications Commission. But the search for information is done much the same as it was decades ago—by hand.

The agency's public reference room is a small, obscure symbol of the changes that deregulation has wrought while other aspects of the agency remain pretty much the same for the uniquely Washington industry of communications law.

Before commission chairmen began adding terms such as "reregulation" and "unregulation" to the language, young lawyers would be in the small, quiet FCC reference room to keep track of the filings that might have an impact on the broadcasters they represented. Today, the young lawyers have been replaced by a horde of younger "gofers" hired by law firms to photocopy filings, primarily those dealing with some of the new technologies or new uses of the old.

The Federal Communications Bar Association (FCBA) has doubled in size during the past 10 to 15 years (from 700 to 1,400), but the number of those serving broadcast clients has remained about the same. Nearly a third of the members actually practice in other cities. There is a New York chapter and one under consideration in Chicago.

The FCBA holds monthly luncheons with guest speakers. Until about 10 years ago, the subject of those speeches was almost always broadcasting. Today the speech, to an increasingly younger crowd, is just as likely to be about common carrier issues, such as changes in the telephone companies. And the audience at luncheons and at the organization's continuing education programs tends to be composed of many more corporate lawyers than in the past.

Broadcast lawyers are just as busy today as they were in the past, but they have seen a huge shift in their work. In the past, they report, they would receive at least weekly calls from their clients around the country asking about conducting ascertainment, double billing, advertising, public affairs programming, and otherwise supplying the mounds of paperwork required by the FCC. Today, those contacts are few, and a communications lawyer is more likely to be retained to conduct a business transaction or supply advice that requires an expansion of their own expertise to keep up with the new developments in telecommunications.

To the broadcaster, FCC deregulation looks like a tangible thing. To communications lawyers, deregulation often is illusory, for when one agency drops its controls, rules at another agency can sometimes then come into play. And deregulation can actually increase the demand for their services.

Pendulum swings

Most of the same lawyers are advising their clients to act as if they are still regulated because the more senior ones have been around long enough to see the pendulum of deregulation-to-regulation swing several times; and they expect it to swing back once again to regulation, either because of industry abuses or because of a change in government philosophy.

Interviews with a cross section of communications lawyers practicing in Washington illustrate the depth of the change that has taken place. Deregulation has actually increased work for communications lawyers, they agree. One says deregulation "has changed what communications lawyers do, but it has given them large new client opportunities."

Gene Bechtel, president of the FCBA bar, a partner in Bechtel and Cole, and a communications lawyer for nearly 30 years, says, "The age of deregulation at the FCC has spawned a growth in our bar and in the number of practicing lawyers who are in the communications field."

He adds, "When they deregulated and took away the rules about how you operate stations and so on, that didn't eliminate a whole lot of law work." Instead of spending a lot of time working on FCC regulation, lawyers now spend most of their time "in allocations, in new frequencies opening up, in applying for new frequencies. Deregulation has encouraged that. Not only that, it has opened various communications fields up to new parties, and new parties do not have old ties to communications lawyers."

Edgar Holtz, FCC general counsel before he entered private practice in 1960, says from his office at Hogan and Hartson, "Deregulation has had a major impact on the work of lawyers in renewals and precautionary steps they took to guard against violations. Five to seven years ago, something would be a serious no-no. Today, the commission no longer cares about it. The feeling in the bar is that communications has done a 180-degree turn on enforcements."

James Gammon, senior partner in (continued on page 94)

"We would spend hours on ascertaining needs. We had people in hearings because they didn't ascertain well enough. Today, they don't even ask the question."

James Gammon
Senior partner
Gammon & Grange

Federal Communications Commissioners

July 10, 1934
to April 14, 1986

Mark S. Fowler 1981- CHAIRMAN
James Quello 1974-
Mimi W. Dawson 1981-
Dennis Patrick 1984-
Henry Rivera 1981-1985

Stephen A. Sharp 1982-1983
Anne P. Jones 1979-1983
Joseph P. Fogarty 1976-1983
Abbott Washburn 1974-1982
Charles D. Ferris 1977-1981
Robert Emmett Lee 1953-1981
Tyrone Brown 1977-1981
Margita White 1976-1979
*Richard E. Wiley 1972-1977

Benjamin L Hooks 1973-1977
Glen O Robinson 1974 1976
Charlotte T Reid 1971 1976
*Dean Burch 1969-1974
H. Rex Lee 1968-1973
Nicholas Johnson 1966-1973
Robert Taylor Bartley 1952-1972
Robert Wells 1969 1971
Thomas J Houser 1970 1971

Kenneth A Cox 1963 1970
*Rosel Herschel Hyde 1946 1969
James J Wadsworth 1965 1969 **
Lee Loevinger 1963 1968
*E William Henry 1962 1966
*Frederick W Ford 1957 1964
*Newton N Minow 1961 1963
T A M Craven 1937 1944 1956 1963
John S Cross 1958 1962 **

Charles Henry King 1960 1961
*John C Doerfer 1953 1960
Richard A Mack 1955 1958**
*George C McConnaughey 1954-1957**
Edward Mount Webster 1947-1956**
Frieda Barkin Hennock 1948 1955**
George Edward Sterling 1948 1954
*Paul Atlee Walker 1934 1953**
Eugene H Merrill 1952 1953

Robert Franklin Jones 1947 1952**
*Albert Wayne Coy 1947 1952**
Clifford J Durr 1941 1948 **
Ray C Wakefield 1941 1947**
*Ewell K Jett 1944 1947 *
*Charles R Denny Jr 1945 1947
*Paul A Porter 1944 1946 **
William H Wills 1945 1946**
*James Lawrence Fly 1939 1944**

Norman S Case 1934 1945**
George H Payne 1934 1943**
Frederick I Thompson 1939 1941 *
Thad H Brown 1934 1940**
Eugene O Sykes 1934 1939**
*Frank R McNinch 1937 1939**
Irvin Stewart 1934 1937
Anning S Prall 1935 1937
Hampson Gary 1934**

*Served as Chairman **Deceased

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TELEVISION/RADIO AGE

Spot Report

April 14, 1986

Spot Report

April 14, 1986

A first step for Nielsen to total ad system?

While Data Communications Corp./MPI adds major advertising agency customers like Campbell-Ewald for its Media-Line computerized media systems and starts testing MPI's new electronic invoicing system with Grey Advertising (TV/RADIO AGE, March 31), and while Michael Donovan, president of Donovan Data Systems, works toward customer savings via economies of scale through total integration of all automated agency functions, A. C. Nielsen's new Spotbuyer micro computer system could be the first step toward one more type of total systems integration: systems handling all television advertising functions, from audience analysis data from its metered markets to its Monitor-Plus service to show advertisers whether, when and where their commercials ran as scheduled.

And down the road, since Nielsen management is generally credited with the desire to seize new opportunities, industry observers assume everyone there would have to be blind if someone wasn't working on ways to eventually integrate the shelf-movement data from Nielsen's Food and Drug Index to include the whole broadcast-marketing enchilada under what agency and broadcaster customers can access from the Nielsen data bank.

Called 'user-friendly.' At any rate, Kel Weber, Nielsen vice president and group director of service development, describes Spotbuyer as a user friendly system to help agency timebuyers manage audience data and "permit buyers to apply their knowledge of the market to fine-tune estimates and negotiate client buys."

It's a software program that works with IBM XT or AT micros to estimate and rank future audiences and costs and "creates optimum buy schedules and generates station schedules." It can produce buy schedules of from one to 13 weeks, or cover an entire year, adds Weber. And it maintains an accounting of gross rating points accumulated and dollars spent, as well as budget dollars remaining.

Mixed Spanish web

Since Spanish language television stations aren't all that plentiful in this country, and since in those few markets where there are two, one is already a SIN affiliate and the other is an affiliate of Carlos Barba's NetSpan, insiders believe that the most likely scenario for the new Spanish-language TV network being organized in this country by Radio Caracas Television (TV/RADIO AGE, March 17) will be a network made up of some SIN affiliates, some NetSpan affiliates, and in other markets with large numbers of Spanish-speaking viewers, even some primarily English language independent television stations, with RCTV's negotiations hinging chiefly on which time slots on which stations will draw the largest numbers of Hispanic viewers.

Meanwhile, NetSpan, which also uses some Anglo stations in markets with large Hispanic populations, reports AT&T, Bayer, Eastern Airlines, Ford, Kraft, Panadol and Sears among advertisers riding with this Spanish language network's packages of Spectaculars and *NetSpan At The Movies*.

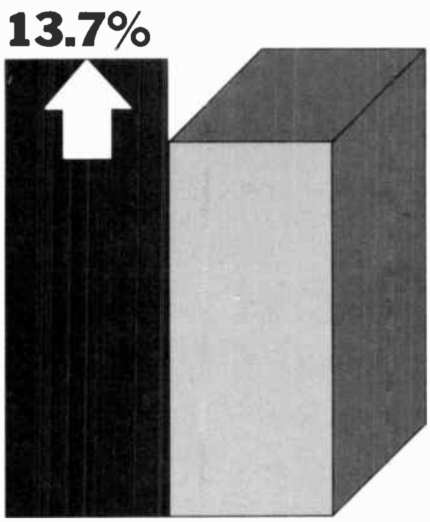
Coverage cited. Barba says this programming offers advertisers 90 per cent of all U.S. Hispanic households on such stations as his own WNJU-TV New York with 677,200 Hispanic households, KVEA-TV Los Angeles, with 835,100 Hispanic households, KSTS-TV San Francisco, with 211,400, and KRRT-TV San Antonio, with 208,800. The Spectaculars are also on WSCV-TV Miami, WCIU-TV Chicago, KGNS-TV Laredo, KIDY-TV San Angelo, and on the Satellite Program Network, said to reach 12.5 million cable homes.

Featured stars of NetSpan's upcoming Spectaculars include "El Puma," Jose Luis Rodriquez, Julio Iglesias, Danny Rivera, Alberto Cortez, Sergio Dennis, Massiel, Miguel Rios, Jose Feliciano and Lanie Hall with Camilo Sesto and Herb Alpert.

NetSpan At The Movies will include *Violent Enemy* with Susan Hampshire, *Eagle in a Cage* starring Sir Ralph Richardson and John Gielgud, *Squeeze a Flower* with Jack Albertson, *Limbo Line* with Craig Stevens, *Man Outside* with Peter Vaughn and *Outback* starring Donald Pleasance.

January

Local business (millions)



1985: $265.7 **1984: $302.1**

Complete TV Business Barometer details p. 32

Spot Report

Campaigns

Amstar Corp., RADIO
SSC&B: Lintas/New York
DOMINO SUGAR is using eight weeks of spot advertising that started in late March in a long list of eastern and midwestern radio markets. Buyers worked to impress women 25-plus.

General Foods, TV
Grey Advertising/New York
STOVE TOP STUFFING and OTHER FOODS are set for 13 weeks of second quarter television appearances in a good many midwestern and southeastern consumer markets. A full arsenal of dayparts was selected to reach both men and women in various age brackets, depending on featured item.

HoneyBaked Ham Co., TV
Smeltzer Communications/Roswell, Ga.
HAMS are being advertised for 26 or more weeks that started in late January in numerous sunbelt television markets. Media team concentrated on daytime and primetime showings to appeal to women 25 and up.

Illinois Office of Tourism, TV
CPM, Inc./Chicago
VACATION TRAVEL is being promoted for five to seven weeks that started on various April air dates in a fair lineup of midwestern television markets. Negotiators placed fringe and primetime spot to reach adults 25 and up.

Kellogg Co., TV
Leo Burnett Co./Chicago
SELECTED CEREALS are set for 13 weeks of second quarter spot appearances that started in late March in a long and coast-to-coast spread of television markets. Buying team used daytime, fringe and kid inventory to reach women, teenagers and children.

MARS, Inc., TV
Ted Bates; D'Arcy, Masius, Benton & Bowles/New York
VARIOUS FOOD ITEMS are being advertised for 13 weeks during second quarter in a long and widespread list of television markets. Media group lined up fringe and daytime avails to reach teenagers and young adults.

Nissan Motor Corp. in U.S.A., TV
William Esty Co./New York
CARS and TRUCKS are rolling for six to 13 weeks that started on various late March and April air dates in a long and nationwide spread of television markets. Negotiators worked with the full range of dayparts to appeal to men 18 and up.

Rhone-Poulenc, Inc., TV
Rhea & Kaiser Advertising/Oak Brook, Ill.
FARM CHEMICAL is being recommended for four to 10 weeks that started in early April in a fair list of midwestern television markets. Buyers worked with news, sports, daytime and primetime inventory to reach farm managers.

Rusty Jones, Inc., TV
Dawson, Johns & Black/Chicago
RUSTPROOFING FOR CARS is being advertised for eight weeks that started in mid-March in a fair selection of midwestern and eastern television markets. Media group concentrated on sports and news adjacencies to reach men 25-plus.

Treesweet Products Co., RADIO
Saunders, Lubinski & White/Dallas
ORANGE DRINK is scheduled for 13 weeks of radio advertising that started in mid-April in a fair lineup of eastern and midwestern markets. Demographic target is women 25-plus.

Turtle Wax Inc., TV
CPM, Inc./Chicago
CLEAR GUARD is being offered for four weeks that started in early April in a long and coast-to-coast list of television markets. Buyers concentrated on fringe and news placement to appeal to men 25 and up.

Ongoing flights

ChemLawn Services Corp. continues spring spot radio and television flights out of Ogilvy & Mather Direct, following its "early bird" campaign in the South. A third "weed" phase of the campaign is scheduled for late summer and fall. Television spots are airing in 38 markets across the country and radio is set for 78 markets.

The campaign continues ChemLawn's guarantee of a "thicker, greener, more weed-free lawn," and features ChemLawn as the lawn care company that "goes that extra yard" to provide superior service and results. Direct response TV commercials and direct mail features spokesman Jim Delfino, head groundskeeper at San Francisco's Candlestick Park, describing ChemLawn as the best choice for home lawn care and customer satisfaction.

Appointments

Agencies

Robert W. Lilley has been promoted to executive vice president, director of media and network programming at SSC&B: Lintas USA. He had been senior vice president, director of media and network programming.

Neil Harrison has been named senior vice president, executive media director at The Weightman Group, Philadelphia, a holding company including Weightman, Inc. Advertising; Schaefer Advertising, Inc.; Roska Direct Marketing, Inc.; and Weightman/Schaefer Public Relations. Harrison joined Weightman, Inc. Advertising in 1967 as a media buyer and now steps up from media director of that agency.

Puerto Rico ratings

First Arbitron-Mediafax television audience reports for Puerto Rico are scheduled for May. They're the result of an agreement between Arbitron Ratings and Stanford Klapper Associates, Inc. to process and report results of the Mediafax Television Audience Measurements in Puerto Rico. The surveys will be conducted in Spanish four times a year, in February, May, August and November.

SKA will continue to design the diary sample and place, collect and edit the diaries. Arbitron will enter edited responses into its regular TV report processing system. Arbitron will produce the Mediafax reports containing daypart audience estimates, time period estimates, people share trends, program audience estimates, program title index and ADI trend estimates.

Robert A. Mancini has joined Doyle Dane Bernbach/Detroit as senior vice president, media director. He moves in from the Detroit office of J. Walter Thompson where he had been senior vice president and group media director on the Ford account.

Judith Monosson has stepped up to associate media director at Ingalls Quinn & Johnson/Boston. She advances from planning supervisor and now oversees planning and buying for Honeywell Information Systems, Friendly Ice Cream, State Street Bank and the Knapp Shoe account.

Frances Weisberger and **Donald Kennedy** have been elected vice presidents at BBDO/New York. Kennedy came to the agency in 1980 as an assistant planner and is now a media supervisor. Weisberger joined the agency from SSC&B in 1983 and is a planning supervisor.

Joan Martin and **Paul Solomons** have been promoted to vice president/associate media directors at Tracy-Locke, Dallas. Solomons joined the agency in 1981 and directs planning for Best Products, Compushop Inc., Curtis Mathes, Haggar Apparel, InterFirst Corp., Marion Laboratories, Republic Health and the Ben Hogan Co. Martin came aboard last year and directs buying for the Pepsi-Cola Bottling Group and Curtis Mathes.

Changing guard

John K. Kaiser, president of Lewis, Gilman & Kynett, Philadelphia, has been named chief executive officer of the Foote, Cone & Belding subsidiary. Robert G. Wilder, who had been CEO, continues as chairman of the agency and Kaiser, who had been chief operating officer, remains as president.

Kaiser joined the agency in 1980 as senior vice president and director of client services, was promoted to executive vice president in 1982, and named president in 1984. Wilder says Kaiser's new role as CEO "signals a changing of the guard as a new generation takes over the management of our business."

Retail Report

Creating a 'warehouse' sale

The concept of a "warehouse" sale, designed to create business for TV stations in the first and third quarters, when rates are traditionally discounted, was originated about four years ago by KDKA-TV Pittsburgh. Since then, the Group W outlet has become sort of a consultant to stations across the country seeking information on how to mount a warehouse sale of their own.

Here's how the concept works, as explained by Gary Diven, KDKA-TV manager of marketing services. "We rented the Expo Mart, about 80,000 square feet in Monroeville (a suburb of Pittsburgh). The standard booth was 750 square feet; and some retailers took as many as six booths." The standard package—advertising schedule on the station, one booth with telephone, backed by station promotion of the event—cost $5,500.

"For that price," explains Diven, "the retailer planned a schedule to run in that quarter, and it was priced in the middle of the rate card." In addition, to generating higher-than-normal rates for the period, the sale, Diven continues, "enabled us to get lots of smaller retailers who were new to TV."

Existing retail advertisers had to invest $5,500 over and above their normal expenditures for the period—"they couldn't just switch dollars." And the long-term beauty of the project, Diven says, is that 60 per cent of the new advertisers became clients of the station after the promotion was over. The station, he explains, "had to make a commitment to promote it, to 'deliver the crowd.' " Once that was accomplished, "we were able to demonstrate the drawing power of television."

In the Springfield-Decatur-Champaign market, WAND-TV will be trying a warehouse sale for the first time on June 29. Tom Mochel, local sales manager of the Lin outlet, says he first became aware of KDKA-TV's experience with the concept when he saw it reported on one of the Television Bureau of Advertising's monthly satellite feeds of station sales success stories. Mochel contacted Diven, who provided the necessary background information.

"We've rented out the Decatur Civic Center," Mochel says, "and we will put on a one-day event, from 10 a.m.–6.p.m." Merchants participating, he adds, must agree to sell merchandise at between 20 and 70 per cent off the regular price. A minimum booth is 10 feet by 10 feet (100 square feet), which costs $600 and includes an advertising credit on the station and promotional backup. Every multiple of 100 square feet is an additional $600. The ad credit, Mochel adds, must be used between June 15 and September 15.

"We will begin promoting the event heavily on-air about three weeks prior," he says, "and we will also have a small print schedule. And we will have our news people down there on the day of the event. Like KDKA-TV, WAND-TV also has a requirement for current advertisers. The credit allowance starts over and above expenditures for the comparable period of 1985.

And to sweeten the pot, Mochel says the station offers a commercial production package "at about half the normal price."

WAND-TV's primary goal is to expose new clients to "the power of television. Many of them are users of newspapers and radio; this will give them an idea of what TV can do for them." In addition to cashing in on the sale itself, retailers are being encouraged by the station to distribute coupons aimed at generating later in-store traffic.

As for types of merchants expected to participate, Mochel expects a wide variety—"electronics stores, furniture stores, jewelry stores." KDKA-TV's Diven says his station's warehouse sales attracted everyone from traditional merchants to "satellite dish dealers and Elaine Powers exercise salons, seeking membership."—**Sanford Josephson**

Doug Spellman has joined Snyder, Longino Advertising, Los Angeles as vice president-media. The former vice president-media, West Coast for Vitt Media International was most recently president of Spellbound Productions, Los Angeles.

Jayne Zazeela has been promoted to broadcast media supervisor at Geer, DuBois, Inc., New York, overseeing the IBM, Moussy Beer and Casa Lupita Restaurants accounts. She joined the agency in 1984 from Ammirati & Puris.

Regina M. Hiser has been promoted to media supervisor at Long, Haymes & Carr, Inc., Winston-Salem, N.C. She came to the agency as a buyer in 1983.

Greg Jones has been appointed assistant media director at Christopher Thomas Associates, Garden City, N.Y. The agency projects billings of $14 million this year, 70 per cent of it in television, radio and magazines.

Marilyn Gitlin is now a media supervisor with Leonard Monahan Saabye, Providence, R.I. She had held a similar post with Emerson Lane Fortuna in Boston and before that had been a buyer and planner for Arnold & Co.

Deborah Diers has joined W. B. Doner & Co. in Detroit as a senior media planner. She moves in from Bernstein-Rein advertising, Kansas city, where she had been a media supervisor and buyer.

Maren Yeska is now a corporate spot buyer for D'Arcy Masius Benton & Bowles, St. Louis. She was previously a buyer/planner with Hughes Advertising and before that had been a media coordinator for Stolz Advertising.

Laura Johnson has been added to the media staff of BBDO/Minneapolis as a broadcast buyer. She moves in from similar responsibilities at Carmichael-Lynch Advertising, also Minneapolis.

Cathy Szyperski has joined Cargill, Wilson & Acree, Inc. in Atlanta as a media buyer. She comes to the agency from a post as assistant buyer at D'Arcy Masius Benton & Bowles, also Atlanta.

Media Services

Alan B. Gibson and **John E. Horton** have been named to head the new Washington, D.C. office opened by SMY, Inc. Gibson is former director of advertising for Extension 229, the in-house agency for Britches of Georgetown, and head of Power House Communications, the advertising division of Gray & Co. Horton formerly headed the Washington office of Doremus & Co. and is a consultant to the motion picture industry.

Worldwide media head

McCann-Erickson has appointed its first worldwide director of media services. Gordon L. Link moves into the new post from U.S. director of media services. According to Robert L. James, chairman and CEO of the agency, "The rapid development of our global clients makes Gordon's appointment very timely. This will give added focus for these clients in a professional area that is becoming increasingly sophisticated and of vital competitive importance."

Adds Barry Day, vice chairman and director of professional services, "For some years now we have been developing worldwide craft fraternities to monitor and raise our standards on a one-world basis. I don't believe any of our competitors has reached this stage of global evolution in their disciplines."

Representatives

Mary Webb Ellis has been promoted to eastern sales manager for ABC Television Spot Sales in New York. She started with ABC in 1979 as a sales trainee at WXYZ-TV Detroit and now steps up from account executive in the New York office of ABC Television Spot Sales.

Ted Rudolph has been appointed sales manager in New York for Seltel. He comes to the rep following sales posts with TeleRep, Group W and Petry.

Kathy McGrath has been promoted to manager of the Graphics Department at Petry Televison and Petry National Television. She worked part-time for Petry while still attending St. John's, then joined the company full time in 1980.

Marty Ostrow has joined MMT Sales as manager of the rep's C-III team in New York, reporting to MMT vice president **Charles Lizzo.** He returns to

Changes at WBBM-TV

Look for first changes at CBS-owned WBBM-TV Chicago under new vice president, general manager Jonathan Rodgers in his own area of expertise: news. Early on-screen evidence of a more experimental approach to the station's news was seen during the Navy's Gulf of Sidra confrontation with Libya. The whole last half hour of WBBM-TV's early news one evening during the height of the action was devoted to this one topic, something never seen under previous general manager Gary Cummings.

Rodgers' start in broadcasting was in news, with WNBC-TV New York. He joined CBS in 1976 as assistant news director of WBBM-TV. He became news director of CBS' KCBS-TV, then KNXT(TV) Los Angeles, in 1980 and station manager there the following year. He joined CBS News in 1983 and had most recently been executive producer of the *CBS Morning News*.

One Seller's Opinion

Distributor asks for station partners in upgrading new shows

Coveny

In recent months we at Blair Entertainment have been revising our new game show, *Break the Bank*. The show's first segment initially relied on intellect, the second part combined intellect with physical activity reminiscent of *Beat the Clock*, and the third segment was pure luck. It was a different concept designed to draw the younger demographics. We aimed to place the show in late afternoon or early fringe. As it turned out, most time slots made available were in the morning. We wound up with a different demographic profile than the one for which we had created the show.

After the first four weeks of overnights, we realized that viewers were having some trouble relating to the show, it wasn't performing up to expectation, and we had to make changes. We did research, listened to focus groups, and discovered three things: Viewers liked the main game, the bonus round needed revamping and the host was not right.

In December we changed hosts. By the end of January, keeping the basics of the game intact, we had completely overhauled the second and third segments. And now that results of the February sweeps are in, we're finding that our work is paying off in those markets where the stations have put some promotion behind the show.

But there's a further key reason to stick with the show: We're not in this business alone. As distributors, we raise hell when a station pulls a show before it's been given a chance. Everyone wants instant gratification and we're no different. But sadly, instant gratification isn't always forthcoming. Had we given up on the show, the stations would have been as furious with us as we would have with them if the tables were reversed. This relationship underlines what we see as a basic business philosophy: We believe that distributors and stations must see each other as partners: not merely as seller and buyer.

In a distributor-station partnership, our role is clear: We create product suitable to your market and stand behind it. We're willing to work at making it better and better, until we are both satisfied. If a show we produce runs behind whatever share your station normally wins in the designated time period, and we do nothing to try to improve the show, you can, with good conscience, either insist something be done to correct the problem or cancel the show.

What we need from our station partners is a similar level of commitment. Primarily, we need the best time period available to maximize a particular program's appeal. And we need continued promotion. Because viewers, particularly daytime viewers, are creatures of habit, a new program takes time to establish itself. And if that program is a new format, it requires special attention. If a station is convinced that we are doing our best to improve a product we've sold them, they must put aside their need for instant gratification and work with us.

How much time is enough? There's no single answer. But if both parties acknowledge that getting a large share of market is an evolutionary rather than revolutionary process, then the partnership will work and grow. That's all it takes.—**Richard C. Coveny,** *president, Blair Entertainment*

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THE FRONT
GHOSTBUSTERS
HAPPY BIRTHDAY TO ME
HARDCORE
THE HOLLYWOOD KNIGHTS
JAGGED EDGE
THE KARATE KID
KRULL
THE LAST WINTER
LOVELINES
MOSCOW ON THE HUDSON
THE MUPPETS TAKE MANHATTAN
THE NATURAL
NOBODY'S PERFEKT
SPRING BREAK
STARMAN
TEMPEST

VOLUME

VI

Columbia Pictures Television
A UNIT OF THE Coca-Cola COMPANY

Media Professionals

A new TV product: the interrupted 30

Alison Tompkins

Associate media director
Smith Burke & Azzam
Baltimore

Alison Tompkins of Smith Burke & Azzam says the concept behind *Playboy* magazine's interrupted 30-second commercial "finds its roots in new product introductions that whet the public's interest via 'tease' campaigns." The spot, created by her agency for *Playboy's* March issue, opened with the word, "Heart" on screen, while a voice read excerpts from an interview with Sally Field. The first 15-second segment ended with no reference to *Playboy*, and was followed by a commercial for a different advertiser. Then the second half showed the word, "Heart," with more interview excerpts. "Finally a photo of Sally Field appeared, followed by the *Playboy* logo and the phrase, 'No one else would dare.' *Playboy's* interrupted spots condensed the time frame between the tease and the payoff."

An idea as revolutionary as this, says Tomkins, required an aggressive posture. Convincing stations to accept interrupted 30s was, she reports, quite a challenge. NBC stations in the test markets of Chicago, New York and Los Angeles, she says, did not object to the idea of interrupted 30s, "But while CBS was considering the concept, both NBC and CBS have policies prohibiting the *Playboy* magazine category. Reluctant stations envisioned traffic nightmares in scheduling the two 15-second segments in proper sequence. We promised them that our traffic people would make extra efforts to communicate instructions accurately. And once our instructions were made clear, no sequence problems occurred during the first test flight."

Tompkins adds that stations with policies barring isolated 15s wanted to avoid setting precedents for future isolated 15 advertisers, but explains that an interrupted 30 "is, in reality, one 30. Interrupted 30s do not leave an awkward 15 seconds of excess time remaining in a pod the way isolated 15s do." And some stations objected to clutter. Asks Tompkins: "Do interrupted 30s really contribute more clutter? Split-30s advertise multiple products. Our interrupted 30 advertises the *same* product in *both* sections of the commercial."

Another question raised was who the middle advertiser should be, and Tompkins says the idea of airing station promotions in the middle slot was embraced by stations "wishing to play it safe." She concludes that while the interrupted 30 "is only in its infancy and poses some difficulty for stations, it may not be as big a problem as that posed by isolated 15s. We think the future of interrupted 30s should be bright, since it may easily become compatible with existing station formats."

MMT from KHJ-TV Los Angeles where he had been national sales manager.

Michelle Robinson has stepped up to sales manager for McGavren Guild Radio in Seattle. She joined the company four years ago and is now promoted from account executive.

Judy Garden and **Gary Harbison** have been promoted to the new posts of team managers in the Detroit office of TeleRep. Both step up from account executive as Carden takes over the T Team and Harbison becomes manager of the R Team.

Marion E. Coughlin has been appointed an account executive for CBS Radio Representatives in New York. She was formerly an account executive with Caballero Spanish Media and before that had been selling for KBRG San Francisco.

Donald R. Oylear is now Seattle manager for Blair Radio/Northwest. He came to the company as an account executive in 1980 following four years with the sales staff of KECI-TV Missoula-Butte.

Andrea Simon is now an account executive/research manager with the Dallas office of McGavren Guild Radio. She moves in from the sales staff of KLIF/KPLX(FM) Dallas-Fort Worth.

Cynthia Grimm has been promoted to group sales manager for Petry National Television in Dallas. The former Petry office manager returned to Petry in 1984 following a year with the Dallas office of Katz Television.

Ron Schuman has been named an account executive for BlairSpan Television Sales, reporting to sales director **Charles W. Curran.** Schuman comes to BlairSpan from WJIT, a Spanish language station in New York.

Birdie Amsterdam has been promoted to account executive, assigned to the Green Team at Harrington, Righter & Parsons, New York. She joined the rep's sales training program last July.

Stations

William M. Dunaway has joined WPTF-TV Raleigh-Durham as vice president/general manager. He moves in from Indianapolis where he had been general manager of WTHR-TV. He is a past member of the Television Board of Directors of the National Association of Broadcasters.

John H. DeRoche is now vice president and general manager of Price Communications' WZZM-TV Grand Rapids-Kalamazoo-Battle Creek. He comes to the station from Syracuse, N.Y., where he had been vice president, general manager of Meredith's WTVH(TV).

James Long has been promoted to president and general manager of Capital Cities/ABC's WPRO AM-FM Providence, R.I. He was formerly vice president and general sales manager of WJR Detroit.

Ed Groppo has been appointed general sales manager at KLZI(FM) Phoenix. He returns to Arizona from Portland, Ore., where he had been general sales manager for KECH-TV.

Frederick D. Weinhaus has been appointed president and general manager of WMAL Washington, reporting to **Don Bouloukos,** president, Capital Cities/ABC Owned Radio Stations. Weinhaus had been president and general manager of WPAT AM-FM New York.

Kenn Devane has been promoted to general sales manager for WFSB-TV Hartford-New Haven. He came to the station a year and a half ago from Petry Television and now advances from national sales manager.

Larry O'Neal has joined KIXK(FM) El Dorado, Ark., as part owner and general manager, and **Gary Terrell** comes to the station as part owner and station manger. O'Neal was formerly with WSB-FM Atlanta and Terrell had been production supervisor for KTVE(TV) El Dorado-Monroe.

John F. Carpenter has been named general manager of KETV(TV) Omaha. He comes to the Pulitzer Broadcast outlet from the Harrisburg-York-Lancaster-Lebanon market where he was general sales manager of WGAL-TV.

BAT changes hands

Vidcom International Corp., Old Greenwich, Conn., has acquired the BAT broadcast software system from Magnicom, a division of Control Data Corp. The purchase includes a customer base of 120 radio and television stations using the computerized system to handle billing, traffic and accounting functions.

Vidcom, which creates custom programming for such customers as Chesebrough Ponds, the Direct Marketing Association and John Blair Marketing, plans to enhance BAT and "remarket it" to the broadcast field. Former BAT personnel spearheading the operation will be Charles Cox, vice president; Mark Custer, product manager; and Warren Middleton, sales/marketing manager.

Michael Rosenberg has been appointed station manager and director of sales at Burnham Broadcasting's KHON-TV Honolulu. He had been general sales manager for ABC Televison Spot Sales in New York.

Deborah McDermott has been tapped as station manager for WKRN(TV) Nashville. She joins the Knight-Ridder station from KMBC-TV Kansas City where she had been program director.

Michael Kibbey is now director of broadcast sales for WTIC-TV Hartford-New Haven. He had most recently been local sales manager for KRIV-TV Houston.

Stuart Fenston has been appointed sales manager for WNBC New York, in charge of local sales. He joined the station as an account executive from WABC New York in 1980 and now steps up from national sales manager.

Paul Hamel has been named sales manager of WQTV(TV) Boston. He was formerly with WSBK-TV, also Boston, and with WLVI-TV Cambridge.

Thomas Callahan, general sales manager of KMOX St. Louis has been appointed director of sales for both KMOX and sister station KHTR(FM), as part of the consolidation of the sales staffs of the two CBS owned radio stations.

Peter Magnusson has been named general sales manager of KSBW-TV Salinas-Monterey-San Jose. He comes from Santa Barbara-Santa Maria-San Luis Obispo where he had been local sales manager of KSBY-TV and before that he had been with KDON AM-FM Salinas.

Allen Stieglitz has been appointed general sales manager of WSHE(FM) Fort Lauderdale-Miami. He joined the station six years ago and now steps up from local sales manager.

Ken Beedle is now general sales manager of KOKH-TV Oklahoma City. He comes to the Blair Broadcasting property from the Minneapolis sales office of Blair Television where he had been an independent television specialist.

Gerald M. Liss has been named general sales manager for WHNS-TV Greenville-Spartanburg-Asheville. He moves in from Miami where he had been general manager and general sales manager of WDZL-TV.

Joan Homa has been promoted to general sales manager of WGMS AM-FM Washington. She started with the station in 1979 as a member of the retail

New consultant

The Taylor Co., a New York-based media consulting firm, has been formed by Sherril W. Taylor, a former vice president of CBS Radio and recently retired management consultant to Bonneville International Corp. Taylor says his new firm will provide media companies "with complete services in market studies, media appraisals, financing, mergers, and buying and selling properties."

Taylor has been vice president and director of sales administration for the Radio Advertising Bureau, a radio-television senior group head for J. Walter Thompson, and from 1964 to 1967 was vice president for radio with the National Association of Broadcasters. He is a member of the Broadcast Pioneers and serves on the board of directors of the International Radio and Television Foundation.

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sales staff and now steps up from sales manager.

Nancy Dobrow has been promoted to national sales manager of WCBS-FM New York, reporting to general sales manager **Steve Carver.** Dobrow joined CBS in 1981 with CBS/FM National Sales, and had been an account executive for WCBS-FM since 1983.

New Stations

Going Fulltime

WNUV-TV Baltimore; Channel 54; ADI, Baltimore. Plans to convert from part time STV operation to fulltime, over-the-air commercial schedule. Licensee, New Vision, Inc., 3001 Druid Park Drive, Baltimore, Md. 21215. Telephone (301) 462-5400. Samuel Kravetz, president and general manager. Bob Housen, national sales manager. Represented by Independent Television Sales. Conversion target date, April 1986.

Buyer's Checklist

New Representatives

Blair Radio has been named national sales representative for Family Group Broadcasting's WKWF/WAIL(FM) Key West, Fla. and KAYC/KAYD(FM) Beaumont, Texas. KAYD broadcasts modern country music, and KAYC offers an MOR/nostalgia format. WKWF operates with an adult nostalgia format, and WAIL features contemporary hits.

Christal Radio is now the national sales representative for KQMJ(FM) Tulsa and for WANS AM-FM Greenville, S.C. WANS programs an adult contemporary/oldies format, and its FM sister plays contemporary hits. KQMJ carries adult contemporary music.

Hillier, Newmark, Wechsler & Howard has assumed national representation of KDAB(FM) Salt Lake City and KFYI/KKFR(FM) Phoenix. KKFR is an adult contemporary station, and KFYI carries news and information. KDAB plays hits of the '60s, '70s and '80s.

Independent Television Sales has been appointed national sales representative for WDBB-TV Birmingham, Ala. The station broadcasts in stereo 24 hours a day, and its new tower, 2,215 feet above average terrain, is said to be "the second tallest man-made structure in the free world.

Katz Radio has been named national sales representative for Tichenor's WIND Chicago, KLAT Houston and KDXX/KBNA(FM) El Paso. KDXX programs a full service Spanish language format, and KBNA has a Spanish contemporary/top 40 format. WIND offers a Spanish contemporary MOR format, and KLAT is Spanish country.

Weiss & Powell has assumed national representation for WGLO(FM) Peoria, WQSF AM-FM Richmond, Va., and for KLUK(FM) Knob Noster, Mo. KLUK features classic country music, both Richmond stations simulcast easy listening numbers and WGLO is an adult contemporary station.

Republic Radio is the new national sales representative for KIIZ/KIXS(FM) Killeen, Texas. KIXS airs contemporary hits, and KIIZ programs a black urban contemporary sound.

New Facilities

KSL Salt Lake City is building a new 50,000 watt, all solid state transmitter scheduled for completion by late summer. It's a half-million dollar-plus project for the AM stereo station.

WKFT-TV Raleigh-Durham says it will be "the most powerful television station in the world" when its new transmitter is activated this month. Station execs also say the 240 watt transmitter and 2,000 foot tower will give the station the capability to maximize five million watts via an omni-directional signal.

Voyager Communications reports that a new antenna for the 100,000 watt signal of its recently acquired WXIK(FM) will increase its coverage of the Charlotte-Shelby, N.C. market to serve a population of 1.7 million, compared to its current coverage of 405,000 people.

Transactions

Capital Cities/ABC, Inc. has acquired KQRS AM-FM Minneapolis-St. Paul from **Hudson Broadcasting Corp.** for $10.5 million, pending FCC approval. Owner of Hudson is communications attorney James A. McKenna, Jr.

Harris Enterprises, Inc. has purchased KGRI AM-FM Grade Island, Neb., from **Grand Island Broadcasting Co., Ltd.** for $3 million, subject to FCC approval. Broker in the transaction is The Mahlman Co. of Bronxville, N.Y.

Caravelle Broadcasting has agreed to purchase WKCN/WDXZ(FM) Charleston, S.C., from **Dudley Communications** for $2,825,000. Broker is Americom Radio Brokers, Washington, D.C.

Communications Investment Corp. of Tampa has completed purchase of KAYC/KAYD(FM) Beaumont, Texas, for $1.5 million. CIC is headed by Ian N. Wheeler, who is also president of Broadcast Media Services, Inc. and managing general partner of Family Group Broadcasting Companies.


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Viewpoints

Leonard H. Goldenson

Chairman of the executive committee, Capital Cities/ ABC, Inc., in a speech before Pace University's Leaders in Management Awards Dinner in New York

Current merger activity threatens financial stability, innovation by broadcasters

We seem to have forgotten that the future depends on creating new ventures and expanding successful ones—and not on refinancing or dismembering those that already exist. We seem to be forgetting that, if it's cheaper to buy a company than start a new one, we will invest only in the past and mortgage the future. I speak not as a philosopher, but as a businessman—and as a man who took the American Broadcasting Companies into a merger with Capital Cities Communications. I took this course of action because I felt it was essential to insuring the continuity and future of the broadcasting company that has been an important force in American life for more than three decades—and the life's work of myself and many of my colleagues. I chose to do so because I was determined that ABC would never fall under the control of any company or individual who would not uphold its public trust.

By merging with a company that has strong financial resources, we managed to deliver full value to ABC shareholders—without a single junk bond being issued. And by bringing in the legendary Warren Buffet as owner of an 18 per cent interest in Capital Cities/ABC, we secured a stable future in which management can concentrate on running the company—not warding off hostile takeover attempts.

At ABC, we were able to meet the challenge of an unstable economic environment. Many important American corporations have not been so fortunate.

What are the consequences of an economic climate that refuses to recognize that a company may have any value beyond transient stock market prices? What does it mean to deny that corporations represent any long-term value as ongoing institutions—or that they have any obligations that extend beyond their shareholders? These shareholders, let me add, are often arbitrageurs who may own a company's stock for a few hours to a few days, and who nonetheless have rights that take precedence over those of employees who've been part of a company for years.

The first concern ought to be the question of debt. We are flooding our economy with debt. And we have already reached a point where the president of the New York Federal Reserve Bank, Gerald Corrigan, has expressed serious doubt that our economy possesses the productive capacity to ever repay this growing mountain of debt.

Of equal concern is the quality of this debt—or rather, the lack of quality that characterizes so much of it. Warren Buffett, who is not in the habit of being wrong about these things, has predicted that "junk bonds will eventually live up to their name." Indeed, some of them are already doing so.

Even more troubling than the fact that billions of dollars in these bonds will turn out to be worthless is the fact that many of them will turn up in pension funds, with long-term obligations to retirees. Who will pick up their obligations?

Question of equity

There is another question of equity to be raised. And that involves the fact that junk bonds are being mixed with high-grade bonds every day. And in doing so, these high-grade bonds are converted into junk themselves. Without warning, investors in quality bonds can find that a takeover artist and compliant financial institutions have bled much of the value from their investment. Forget the fact that bonds are fiduciary obligations—obligations of faith. As one Wall Street deal maker said in response to charges that bond holders in a takeover were being cheated, "You can't take care of everybody."

You'll no doubt be pleased to know that all this is subsidized indirectly by your tax dollars. . .because under current tax policies, debt is deductible while equity is taxed, often twice. So while they are dancing in Wall Street, sobering questions remain unanswered—too seldom even asked. Where is the public interest? How can we create new jobs, new growth, and new competitive strength in our economy? What kind of creativity and innovation can survive in American business under a smothering load of debt. . .and in an environment where managers fear that every risk may mean betting the company, and every mistake may be their last?

I fear that one of the most insidious by-products of the current merger mania may be the loss of the sense of stewardship. Stewardship is a value that has governed the growth and continuity of American companies from generation to generation. . .and fostered a legacy for our successors.

If speculation succeeds in driving up the price of stations beyond any further investment value, they'll be sought after only by large communications companies. These will have to be companies with deep pockets, as well as the ability to operate broadcasting properties profitably through economies of scale. Should this day come, there is the danger of finding a communications community characterized by the increasing blandness that is sometimes the counterpart of diminishing diversity.

Programming/Production

Fox Network eyes primetime kick-off

The Fox Television Network, the ambitious fourth-network operation being formed by Rupert Murdoch, vis-a-vis his purchase of six Metromedia stations and the 20th Century Fox studios, will be a program-directed service geared initially to primetime needs of independents. In an exclusive interview, Jamie Kellner, president of FTN and former president of Orion Television Syndication, notes that the programming game plan calls for the developing and producing of "quality" first-run programs for primetime, while theatricals will probably play a role as well. Kellner says station groups and advertiser interest in the network is running very high.

However, he stresses that it will be at least another two months before specifics will be laid out on programming and other matters related to FTN. At that time, he says, the network's plans will be revealed all in one swoop.

Kellner says the company's goal is to have everything carefully studied, approved and to know exactly how it will work, prior to any major announcement, "so that we don't have to zig-zag our way in the next two years to try to meet goals which weren't properly set at the beginning."

He says that a bunch of station groups and advertisers have shown interest in the network, as has the Hollywood community, which he believes is a vital link to the network's operation. "Hollywood is very enthusiastic and if we can get quality programming and get an audience in primetime, I guarantee our network will be a success."

The biggest need of indies, continues Kellner, is primetime programming, "which is an obvious statement. The competition from cable using movies in primetime will increase, as will the competition from home video, which is movie-driven continuing to take viewers away from indies. The only answer is original programming—longterm. Also, the margins of primetime have narrowed because of product costs. So our goal is for our stations and for those that will get involved is to provide a primetime program service."

Whether the primetime program service will be one night or seven nights, he continues, has not yet been determined. "However, we know what the economics of the programming and the economics of the advertising business are, so it all comes down to how successful we will be with our programming ventures." Regarding programming, Kellner notes that a lot will be first-run shows, but he doesn't rule out using theatrical pictures.

Kellner says he has no specific time schedule for the fourth-network launching, other than "to proceed as quickly as we can without creating any jeopardy by moving too quickly. And because it will be a program-directed service, enough lead time has to be necessary to develop and to produce quality programs."

Meanwhile, on the Fox Television Stations' level, David L. Simon has been named vice president, programming. Since 1981, Simon has been director of programming at KTLA Los Angeles, with responsibility for all programming activities, including program acquisition, scheduling and administration. Simon is the 1986–1987 president of the National Association of Television Programming Executives International.

David L. Simon

Simon's other TV experience includes positions as vice president and program director at WTTG(TV) Washington, program manager at WKBD-TV Detroit, and promotion manager at KBHK-TV San Francisco. He is a recipient of a Los Angeles Emmy award and numerous other broadcast achievement awards. Simon will be based in Los Angeles, at the Fox Studios lot, according to a spokesman.

Syndication shorts

Matt Houston, one-hour detective series, has been sold to 36 markets by **Warner Bros. Television Distribution.** The most recent signings include KIRO-TV Seattle-Tacoma, WDBB-TV Birmingham-Tuscaloosa, KMSS-TV Shreveport-Texarkana, WFLX-TV West Palm Beach, WUHF(TV) Rochester, KMSB-TV Tucson and KYTV(TV) Springfield, Mo. Also, WB's *Night Court*, now in its third season on NBC TV, has been sold in 81 markets, these include WBNS-TV Columbus, WPMT(TV) Harrisburg-Lancaster-Lebanon-York, WTVK(TV) Knoxville, WXEX(TV) Richmond, KGAN-TV Cedar Rapids-Waterloo, WEVV-TV Evansville, KDLT(TV) Sioux Falls-Mitchell; KTVL(TV) Medford and KEVN-TV Rapid City. *Court* is available for syndication in the fall, 1988.

Blair Entertainment's upcoming one-hour sports special, *NFL Update '86*, has been cleared in 100 markets. The show has an August 23–September 7 barter window. Among stations cleared are KRON-TV San Francisco, WBZ-TV Boston, WXYZ-TV Detroit, KRIV-TV Houston and WXIA-TV Atlanta. Last year's *Update* aired on 180 stations with a 94 per cent coverage and registered a 4 NTI rating, according to Blair.

Syndicast Services' *Bring on the Summer*, two-hour special starring the Beach Boys and featuring some of rock music's top performers, will air May 15. The event was taped in stereo in Washington and Philadelphia.

MG/Perin has been appointed exclusive TV sales agent for **Independent Television Network's** film library acquired from Film Ventures, which filed for Chapter 11 bankruptcy. The library consists of 16 theatricals—shock and action movies. The package is being sold via cash. The features are part of the inventory acquired when Film Ventures, the parent company of Artists Releasing Corp., became a wholly-owned subsidiary of ITN.

D. L. Taffner/Ltd. has licensed *Three's a Crowd* to the Fox Television stations, which will air the program as a companion series to Taffner's *Three's Company*.

Program Syndication Services has cleared *Morning Stretch*, half-hour strip, in six markets, for a total lineup of 110, or 75 per cent U.S. coverage. Clearances include eight of the top 10. New stations include WAYK-TV Orlando-Daytona Beach-Melbourne, WCAJ-TV Birmingham, KOTV(TV) Tulsa, WDKY-TV Lexington, KPOL-TV Tucson and WBNB-TV St. Thomas, VI.

Orbis Communications will distribute a one-hour special, *Distant Replay*. The special, which is based on the book by Jerry Kramer and Dick Schaap, marks the 20th anniversary of the Super Bowl. The barter split is five and five, and the special will air in January, 1987.

'Wheel' February topper

Wheel of Fortune continues to repeat as the top-ranked syndicated series, followed by *Jeopardy!*, according to the Cassandra NTI report for February. All-in-all, there were very little surprises and little change in positions among the top-10 ranked series, as compared to the November book and going back to February, 1985. *Wheel*, in fact gained some strength over the two other reports, getting a 20.3 rating and 33 share this February, against a 19.7/32 last February.

Jeopardy! also did better this February, with a 12.2/25 compared to a 9 5/22 and placing fourth in the February, 1985 report.

The New Newlywed Game, in the third slot, racked up a 10/3 10.3/20, improving on its 8.9/19 in November, 1985 when it wound up in the Number 4 slot. *M*A*S*H*, consistantly among the top five, was Number 4, with a 9.7/20 losing some ground over the year before's 10.9/23 when it was in the second slot. *Three's Company*, Number 5 this February, had a 9.5/20, not as high as its February 1985 score of 10.7/22 but bouncing back from its past November's 8.6/19.

PM Magazine was the eighth-ranked series, behind two special shows, *Hyde and Seeke* and Metropolitan Basketball, with a 9.3/16, vs. last February's 9.2/16 and the past November's 8.8/15. *Entertainment Tonight* was Number 10 with an 8.8/17, behind the Number 9-ranked show, *Big Spin*. Other series among the top 20 the past February were, Number 12, *People's Court*, 8.5/20; *Price Is Right*, 8.4/17; *Different Strokes*, 8.0/17; and *Phil Donahue Show*, 7.8/31.

Paragon, Horowitz tie

The Paragon Group and the Norman Horowitz Co. have entered into an agreement to work together to analyze and pursue entertainment opportunities. Paragon was created in late 1985 by Russell Goldsmith, former chief operating officer and member of the board of directors of Lorimar, to acquire, operate and invest in entertainment and communications companies and entertainment product. Norman Horowitz launched his company in October, 1984. He was president of PolyGram Television, and before that, president of Columbia Pictures Television. Horowitz has worked in the entertainment and communications areas for many years, in production, distribution and acquisition of TV, theatricals for TV and other properties for domestic and international consumption.

NFL ratings up: BBDO

With the Chicago Bears carrying the ball, aided by strong rating yardage gains by teams in markets with large TV audiences, the three major TV networks scored some impressive ratings during the past National Football League season. Actually, *Monday Night Football*, according to BBDO's network research department analysis of the 1985 NFL performance, showed the largest average increase in household ratings over the previous season. ABC's ratings climbed 15 per cent to 18.5, compared with 16.1 for the previous season, according to the agency. CBS boosted its household ratings 10 per cent to 15.8 from 14.3; and NBC, which had shown a four-year ratings decline, rose 5 per cent to 12.6 from 12.0 in 1984.

BBDO notes that CBS' telecasts averaged between 2 and 4 rating points better than NBC, partially because the home markets of its team represent nearly 5 million more households than NBC. In post-season play, BBDO reports that NBC and CBS wound up in about a tie in the championship game ratings. NBC's AFL game pulled a 32.4, or a 10th of a point less than 32.5 NFC championship contest on CBS.

As to 1986, the BBDO report is predicting that CBS' dominance over NBC during the play-offs should continue, with the rating levels being influenced by the popularity of the teams involved. The Super Bowl will remain the top sports attraction and will obtain a rating similar to those of the last few years. The Pro Bowl, which last year registered its lowest ratings, 12.2, will continue to reflect lack of viewer interest, mostly because it occurs after the season and the Super Bowl, BBDO predicts.

Programming/Production

(continued)

Cooper forms company

Edward Cooper, president, Orion International, has exited Orion Television Syndication to set up his own company. The new firm, Cooper International, will represent both international broadcasters and producers who are looking to acquire programming in the U.S. and U.S. production companies seeking to sell programming abroad. In an interview, Cooper says that home video representation will also be involved in both instances.

Ed Cooper

The firm will also act as agent to foreign distributors and broadcasters looking for representation in the U.S. Cooper, who will leave Orion May 1, says he expects to put together an organization shortly. He is, at present, "under obligation to Orion for consultation until the smooth transition of my former duties are completed. I will continue to be available on a consultation basis at Orion through the summer."

Paramount satellite offer

Paramount Domestic Television will distribute three off-network series via satellite and plans to expand its satellite distribution to selected feature films beginning this summer. The three series are *Angie*, *The Brady Bunch* and *The Odd Couple*, off-network shows which recently were converted from film to video tape. All episodes from each will be available by satellite to stations picking up the rights to the shows, with transmission scheduled to begin shortly.

Production company set

Green Oak Productions has been formed by Bud Greenspan and Milt Okun, and five feature film and television projects are in development. About $15 million has been earmarked for production. Projects currently in development include *The Valerie Brisco-Hooks Story*, theatrical based on the life of the Olympics triple-gold winner; *Jamaica Calling*, musical; *Time Capsule—The 1936 Berlin Olympics*, two-hour special utilizing footage of Hitler's Olympics; *The Charlie Boswell Story*, theatrical based on the life of the blind golfer; and *The Honor of Thy Country*, 13 half-hours spotlighting the Olympic heritage of 13 countries. Greenspan and Okun most recently teamed up in *16 Days of Glory*, from Paramount.

CTN deal on 'Paradise'

Caribbean Television Network, international barter company, has locked up a two-year license deal to market and distribute ARP Films' *Strange Paradise*, gothic series of 195 episodes made available in both English and Spanish versions. CTN will distribute *Paradise* on both a barter and a cash basis. The series will serve as the flagship of CTN's primetime schedule for its U.S. Virgin Islands/Leeward Islands TV network, notes Judith Markovitch, CTN's vice president and executive assistant to the managing director.

The agreement with ARP covers all the Caribbean and most of Latin America, including Mexico and Brazil, according to Steve Schiffman, managing director/general counsel at CTN. Schiffman says that barter networks are the best tool for Latin America, and he anticipates the Spanish-language version of *Strange Paradise* to be sold to the various Latin American networks as well as the Puerto Rico market.

The network has longterm affiliate agreements with TV outlets in Bermuda, Aruba, St. Croix/USVI, San Juan/Puerto Rico and in other areas. "Thus far," says Schiffman, "Richardson-Vicks, Procter & Gamble, Beatrice and Hunt-Wesson are participating with a full network schedule, while Xerox is planning to participate, for the moment, on the Bermuda feed, which consists primarily of specials and miniseries such as *The Long Hot Summer*.

WPCQ-TV local news

WPCQ-TV Charlotte will begin broadcasting a local news show in September. The newscasts will air early evenings and at 11 p.m., Monday through Friday. The station plans to hire a complete news staff, competitive with the other stations in the market. Both newscasts will be half-hour shows.

In addition to the new personnel, the outlet will buy the latest news and weather equipment, and the station's offices and studios will be remodeled to accommodate the new staff and equipment. WPCQ-TV is an NBC affiliate.

SMPTE technical confab

The Society of Motion Picture and Television Engineers will hold its 128th technical conference and equipment exhibit October 24–29 at the Jacob K. Javits Convention Center, New York. The conference and exhibit will split two weeks, marking the first time that the SMPTE has put such a format into effect. The Javits center contains about 900,000 square feet of exhibit space plus another 50,000 square feet of outdoor space for exhibits. The center has more than 100 meeting rooms, notes SMPTE conference vice president, Maurice L. French, of the Canadian Broadcasting Corp.

Dynamic Technology

Dynamic Technology Ltd. has been awarded a contract worth more than $360,000 to supply WLS-TV, ABC-owned station in Chicago, with vertical interval machine control equipment. The equipment, "Vimacs," allows the remote control of VTR's, when the control data is inserted onto the vertical interval of the video to and from the machines. Similar installations have been supplied by Dynamic Technology to the New York, Washington and San Francisco studios of ABC, with additional equipment which allows source identification and time code to be sent via the vertical interval.

Worldvision film deal

The recently concluded agreement reached between Worldvision Enterprises and Tomorrow Entertainment will cover at least 20 features. The first two to be distributed by Worldvision worldwide are *My Sister's Keeper* and *Bad Guys*. Under the agreement, Worldvision will distribute Tomorrow product to network, cable and syndication. In addition to theatrical properties, Tomorrow is developing a number of movies of the week, and TV series. Agreement was announced jointly by John D. Backe chairman and CEO of Tomorrow, and Kevin O'Sullivan, chairman and CEO of Worldvision.

N.Y. Emmy winners

WCBS-TV New York took seven program Emmys and five for individual achievement for excellence in the arts and sciences in television, topping the other TV stations in the market. The awards, handed out by the New York Chapter of the National Academy of

Television Arts and Sciences, went to 15 programs and 16 individual craft achievements (*TV/RADIO AGE*, March 31). In programs, WCBS-TV won for single news feature, *The Great New York Apartment Hunt;* sports programming, *Warner Wolf's Plays of the Year;* documentary program, *Beyond the Altar: The Catholic Church in New York;* documentary series, *Channel 2 the People;* children's programming, *A Little Like Magic*; entertainment, *Morry's Stories* (tie with WNET); PSAs, *Project: The Working Woman.*

WNBC-TV took four program Emmys: news broadcast, *News 4 New York;* investigative reporting, *Fire Truck Death;* news special, *VE Day: 40 Years After;* community outreach programming, *They're Selling Chookies.* WPIX(TV) and WNET(TV) took two awards each. WPIX(TV) won for editorial and for promotional announcement, Henry Tillman (campaign); WNET, for discussion/interview series, *Currents*, and entertainment programming (tie) *Hizzoner!*

In crafts, besides the five awards picked up by WCBS-TV, other winners were, WNET, with four; WABC-TV, two; WNBC with three; WOR-TV, one; WNEW-TV, one. The Governors award went to Gabe Pressman, for his pioneering use of television in getting the story.

Writers Guild Awards

The Writers Guild of America has presented its awards for outstanding achievement in screen, TV and radio writing during 1985. *Do You Remember Love?* on CBS-TV, took the original TV drama antholgy award, while *Burning Bed*, on NBC-TV, grabbed the adapted drama anthology prize. Other TV winners were, original/adapted comedy anthology, *The Ratings Game*, for pay-TV; episodic drama, *An Unusual Occurence (Cagney & Lacey)*, CBS, and *Miami Vice* (pilot) NBC (tie).

Also, episodic comedy, *Moonlighting* (pilot) ABC; and *Madison Avenue Madness (Steambath)*, Warner Bros. and pay-TV (tie); variety, musical, award, tribute special event, *The History of White People in America*, Part II, comedy variety special, Universal for pay-TV; multipart longform series, *Death in California*—Part I, ABC miniseries; children's show, *Booker*, PBS; documentary, current events, *CBS Reports: Honor, Duty and a War Called Vietnam*, CBS; and *Snowstorm in the Jungle*, WTBS-TV Atlanta and syndication (tie); documentary, other than current events, *Heritage: Civilization and the Jews*, Part VII: *The Golden Land*, PBS; spot news, news in review, *CBS Sunday Morning*, CBS; and TV serial, *One Life to Live*, ABC.

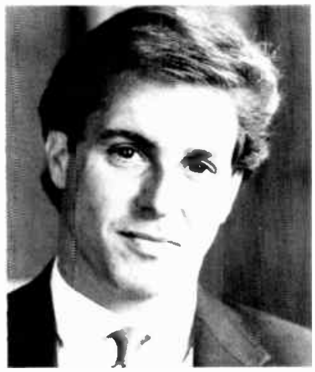
In radio, documentary, *Newsmark—One Nation Under God: Religion in the Public Square*, CBS Radio News; spot news, *News of the Day*—Aug. 31, 1985, CBS Radio; and drama, *Birdie*, Heartbeat Theater, syndication. *Merger*, on ABC, won the graphics award, while *Where You Belong* spots on PBS won the on-air promotion award. Winners of hononary awards were also presented.

Zooming in on people

Barry Thurston has been promoted to senior vice president, domestic syndication, **Embassy Telecommunications.** Thurston joined Embassy in May, 1983, as vice president, domestic syndication, after 12 years at Field Communications Corp. At Field, he was vice president, programming, for the station group and acquired and developed several award-winning children's programs and the miniseries *Blood and Honor and co-developed Inspector Gadget.* In 1970, Thurston was named programming director for all Field stations and became vice president, programming, for the group in 1971.

Barry Thurston

Robert Oswaks has been named vice president, advertising and promotion at **Orion Television Syndication.** Oswaks joins Orion from Paramount Domestic Television where he recently was executive director, advertising and promotion. Before that, Oswaks was vice president, in charge of advertising and promotion, at Embassy Telecommunications. Prior to joining Embassy, Oswaks was with Tandem/T.A.T. for three years



Robert Oswaks

Nancy Kendall has been appointed director, dramatic development, **Viacom Productions.** Previously, Kendall was manager of program development at Warner Bros. TV. Before that, she was project manager in the TV programming division at FC&B Advertising.

Nancy Kendall

Conrad Roth has been appointed senior vice president at **All American Television.** Roth has been a consultant at All American since its inception in 1982, primarily in barter syndication. His career spans a spectrum of advertiser/agency posts including advertising director at Lanvin-Charles of the Ritz

Programming/Production

(continued)

and a vice president and account supervisor for several agencies.

Ron Harrison, Colbert Television Sales western sales manager, has been named senior vice president of Colbert's new Classics division. He'll oversee the sale and distribution of New Generation Classics, including half-hour episodes and feature length films of *Lassie*, *The Lone Ranger* and others. All told, 879 half hours and 32 features are available.

Rod Cartier has joined **Lorimar-Telepictures Domestic Distribution Group** as director, southern sales, perennial syndication, a new position. Before joining L-T, Cartier had been vice president/program director at WNOL-TV New Orleans since March, 1984.

Rod Cartier

Radio format shifts

Barry Chase, 20-year radio veteran, has joined KKLT(FM) Phoenix, in the morning with Cindy Wine and Fred Kalli, in the 5:30–9 shift. Other changes are Terry Floyd, midnight to 5:30 a.m.; Roger Thomas, 9 a.m.–noon; Mike Shores, noon–3; Lisa Malay, 3–7 p.m. and Ray Vargas, 7 p.m.–midnight.

Arlene Francis has returned to WOR New York daytime schedule. She co-hosts a lunchtime special, with Joan Hamburg from Sardi's restaurant in Manhattan, called *Lunch with Arlene and Joan*. Show airs every Wednesday, 11 a.m.–1 p.m.

Dr. Don Rose had extended his shift on KFRC San Francisco, to four hours, from 6–10 a.m. The station has dropped *Countdown America*, show which had been on from 9 p.m.–1 a.m. on Mondays.

Shamrock Broadcasting's WFOX(FM) Atlanta has promoted Tom Pierce from director of music to assistant program manager. He has been with the station since 1983.

GCC Communications of Cleveland, which owns WERE/WGCL(FM), has promoted WERE operations manager George Oliva III to vice president of programming in charge of both stations.

Tony Stevens, music director at country station KFKF-FM Kansas City, has been named program director at "solid gold country" sister station KCKM(AM).

Heavy Metal From Hell has ascended to New York's WXRK(FM)("K-Rock") Sundays from 11 p.m. to midnight. Hosted by music director Mark Di Dia, the program features music from such groups as AC/DC, Judas Priest, Kiss and Twisted Sister, as well as a segment called "Metal Your Mother Never Played You."

Montreux festival

Guillaume Cheneviere, secretary general of the Golden Rose of Montreux, has announced a greatly expanded seminar schedule for the annual event.

Topics to be discussed by international panels of television professionals between May 8 and 13 include "How Do Viewers Choose?", "Games and Quizzes: The U.S. Influence", "Political Satire: How Far Can We Go?", "Political Satire: How Far Should We Go?". Additional panels will give an international panorama of the 1985/86 season's most successful shows and will look at the TV entertainment scene in a number of countries of special interest. Admission to the seminar sessions is free of charge to all Golden Rose participants.

Dates of the Golden Rose of Montreux are May 7–14.

ASTA traffic guide

The Advertiser Syndicated Television Association has published its first annual *Broadcast Traffic Guide*, being made available free to advertisers and ad agencies. The guide is designed to be used as a source book for identifying syndicator contacts at the 17 ASTA member companies, and to facilitate the integration of commercials by listing all technical requirements.

For each syndicator, the Guide lists the individuals responsible for handling commercial integration, their phone numbers and each company's specific format needs. The Guide will be mailed to advertisers and agencies and made available to other interested parties, notes ASTA.

Study on SCA use

A new statistical study lays to rest the fear of some FM radio stations that SCA use damages a station's competitive position. The study compares patterns of subcarrier use and market rank in the top 25 markets and concludes that whether a station uses SCA has no bearing on its competitive performance. The study, commissioned by Waters Information Services, Binghamton, and conducted by a Watson School Engineering at SUNY-Binghamton, Ph.D candidate, Eric Minch, notes that of the 324 stations included in the study, population, 43 per cent used at least one SCA and 57 per cent were not transmitting subcarriers.

Among the SCA users, the median market rank was nine, while among non-users, the median was 10—"no significant difference". The mean rank among users was 10.1 and among non-users, 10.4. The study compares market rank as reported in the fall, 1985 Arbitron survey (12+ AQH total metro) and SCA usage information from the FM-SCA Census, a proprietary database.

Production notes

George Eckstein has joined **Schaefer/Karpf Productions** as a partner, with the company to be known as **Schaefer/Karpf/Eckstein Productions.** Schaefer has been appointed chairman of the theater arts department at UCLA, effective upon completion of current projects for Schaefer/Karpf.

Bill Carroll has been appointed director of production management at **Columbia Pictures Television.** Carroll's most recent credits include *Alice in Wonderland*, *A Winner Never Quits*, *Outrage* and *The Return of Mickey Spillane's Mike Hammer*.

Stonehenge Productions and **Paramount Network Television** will begin production on *D.C. Cop*, one-hour pilot for CBS. Allan J. Marcil will be producer, and Neal Norlinger, co-producer. Dick Berg owns Stonehenge.

Sascha Schneider and **Tom Chehak** have been named producers of **WB Television's** *Scarecrow and Mrs. King* series. They join executive producer George Geiger and supervising producer Rob Gilmer.

New World Television's Tamara Asseyev has acquired the rights to the Marilyn and Leon Klinghoffer story. The project, on which Asseyev will be executive producer, is being put into development as an NBC movie of the week, as *Siege at Sea*.

Second Serve, the story of Dr. Renee Richards, will be dramatized via a **Lorimar-Telepictures** movie for CBS airing in late spring. The movie chronicles the true story of the transsexual tennis star and the controversy surrounding her past 20 years. Vanessa Redgrave plays Richards.

Noble: DDB setup offers double value

Just placed at the head of DDB/New York's double-decker creative management structure, John Noble, executive vice president/executive creative director, sees the new structure as a way of giving clients "twice as much for their money." Just previous to Noble's promotion (TV/RADIO AGE, March 31), the agency's creative department had been organized into three creative groups, each jointly headed by a copywriter and art director—an upward extension of what previously had been done on individual accounts.

The benefit of the new structure at the upper level, Noble says, is that when one of the two creative directors is traveling or otherwise unavailable, the client still has access to a group creative director. He points out that art and copy people have already mastered the art of cooperative management at the account level, so he expects no problems in senior management.

Having risen through the copywriter ranks, Noble joined the agency in 1965, becoming immediately involved with the Volkwagen account, for which the agency had only done one commercial at that time. He recalls "translating the tonality and wit of its print campaign to TV— a subtle sell using a sense of humor—poking fun at Volkwagen but making statements that were easy to take." For example, when VW first offered air conditioning, a spot showed snow coming out of the door, and the announcement was made by an Eskimo.

Now that Volkswagen owns Audi and DDB has that account, Noble says, its campaigns are carried out with "the same audaciousness and confrontation of conformity" that has been applied to VW. A recent commercial, "The Wall," relates that the law requires manufacturers to drive their cars into walls but that Audi also goes around them. Although creative and account people have traveled to Germany to get the corporate philosophy from VW and Audi, the account is actually out of the manufacturer's Detroit office and more subject to U.S. guidance. Noble says, "There's a certain arrogance" in the approach "along with injections of humor— but not 'ha-ha' humor."

In terms of overall goals for DDB's creative operation, the new executive creative director holds, "The most important thing for us is to be as different and contemporary as possible in reaching the viewer." This dictum, he notes, covers the threat of increased commercial avoidance through zapping and zipping (fast forward search through a video tape recorded off-air).

"It's always been our philosophy to get something new," he elaborates. "No one wants to watch two women in the kitchen talking about butter. We're working on one commercial that has nothing but silence until the end of the commercial. You can get more attention with silence than you can with shouting." There's another one for Audi that just uses beautiful music with footage of the car, stating, "Everybody needs a place to go for peace and quiet."

And a campaign for Mobil I oil gets its point across even while being zipped—"with the can always the hero." Small cars come out of the oil can, or

John Noble *has assumed the top creative role at DDB/New York, supervising three creative groups, each headed jointly by a copywriter/art director team.*

the can is passed around the world. Despite his copy background, Noble believes in giving the art directors the major role in many instances, noting, "There are also people who aren't listening even when they're listening."

Noble contends that celebrity spokespersons can be ineffectual if they have no connection with the product—such as John Houseman speaking for Smith, Barney or Cliff Robertson for AT&T. "If they have no connection with the product," he asserts, "unless you spend megabucks, they have no effect on the campaign."

Not that the celebrities have to be authorities on the product, he notes. For example, his agency did a campaign for Bulova watches, tying the "interesting faces" of the watch line to people with interesting faces, such as Mohammed Ali, Roger Daltry of The Who, Johnny Cash, Morgan Fairchild and Bernadette Peters.

"Real People" campaigns also rely on having the right people, he says. He praises Campbell-Ewald for its "Lean on Me" campaign for Chevrolet trucks, where real people lean on the trucks. "It's done beautifully, and it's really effective," he contends. "But if you see someone on the screen who you don't like, then the advertiser is really in trouble. And if you use actors as real people, nobody believes you."

Noble doesn't believe cost-effectiveness of commercials can be measured like program viewing and placed on a cost-per-1,000 basis—as Video Storyboard Tests is currently doing in a loose fashion. "It scares me," he says, "because clients could read into it any way they want. Too many people are trying to make a buck measuring things. If everyone tried to do inexpensive but effective commercials, they would all be alike. We're in the business of reaching people, and sometimes you're going to have to spend a lot of bucks."

Discussing outside services in commercials production, he holds, "Next to the creative team, the director can bring more to the party than anyone else." He is leaning increasingly toward directors from other English speaking countries—England, Australia, New Zealand and South Africa: "They're doing more interesting things today—like a little bit better lighting, adding a little spark to the dialogue and other little touches that make a commercial memorable. They like to suggest music, which we feel is a big input."

The best presenters

Women are generally more effective presenters in commercials than men, and celebrities get more attention than "real people"—although the latter often do better than anonymous actors. This is the overall conclusion of recent research done by McCollum/Spielman. Having previously analyzed celebrities and "real people," the research firm more recently did viewer tests on 358 "anonymous presenter" commercials—177 with male presenters and 181 with females.

Two measures were used of commercial effectiveness: "clutter/awareness" and "attitude shift." Only 29 per cent of actor spots got above average clutter/awareness scores, compared with 41 per cent of those with celebrities and 36 per cent for real people. Meanwhile, both real people and actor commercials were found "acceptable" 66 per cent of the time and celebrity spots only 62 per cent—meaning somewhat more fre-

Commercials *(continued)*

quent negative reaction to the latter.

In attitude shift, 41 per cent of celebrity commercials scored above average, 36 percent of real people and 32 per cent of actors—but real people spots were more apt to run negative in this area than were those with anonymous actors.

Of commercials with female presenters, 31 per cent scored above average in clutter/awareness, compared with 25 per cent for men. In attitude shift, women scored 36 per cent above average, compared with 28 per cent for men. In fact, 44 per cent of male presenters were below average in attitude shift, compared with 38 per cent for women. Similar results were seen for male vs. female celebrities.

Male and female presenters were about even in such qualities as "informative," "interesting" and believable," but only 81 per cent of male presenters were considered "easy to understand," compared with 87 per cent of females. McCollum/Spielman speculates, "This finding would appear to correlate with higher brand identification levels for women presenters."

Mink and mascara

Sexy Brazilian music and a woman draped in mink are the lures in a new TV spot for Aziza Mink Coat Mascara by Waring & LaRosa, New York. The parting line is, "Go on, spoil your lashes."

Aziza is a division of the Prince Matchabelli division of Chesebrough-Ponds. Agency credits go to Vince DeLuca, art director; Bob Murphy, copywriter and Bonnie Singer, agency producer. Moore Productions was production company, with Jimmy Moore as director.

Sentra positioning

Nissan Motor Corp.'s '87 Sentra is being positioned as more than just a basic car in a broadcast and print campaign involving some $15 million. The overall theme of the campaign out of William Esty Co. is "Bye bye basics, hello '87 Sentra."

TV commercials discuss such aspects as a longer wheelbase to provide more room, the widest rear track in its class, fuel-injected overhead cam and four-wheel independent suspension. The commercials all end with the slogan, "The name is Nissan."

Says Robert B. Kent, Nissan's vice president, marketing services, "The strategy behind this advertising is to point out the many features which are standard in the Sentra. We want buyers to know that, in addition to the best in basic transportation, our Sentra lineup offers new car buyers a complete range of vehicles and that we have elevated the Sentra to a level we believe is a cut above all other comparatively priced vehicles."

Monster beard created

A prickly "monster" beard appears on the face of a college student by means of rotoscoped animation in a J. Walter Thompson USA two-commercial campaign for Schick Disposable razors. As he races to his dormitory room to shave it off, the spot rocks to an original composition, "The Beard is Back," which literally starts with a scream.

The concluding voiceover in the campaign for the Warner-Lambert Co. subsidiary, aimed at young male shavers, is, "When the beard is back, Schick Disposable is always ready." The campaign will run on network through June.

At JWT/New York, Charles Gennarelli was creative director. Power & Light, New York was production house with Ross Cramer as director, Zanders Animation Parlour, New York created the special effects and Scurella/Smythe was the music house.

Liberty coin campaign

Working for the U.S. Treasury Department, Grey Advertising has produced its first TV and print advertising for the new U.S. Liberty Coins. This follows two mailings late last year by Grey Direct which are credited in the sell-out of the half million gold coins issued.

The Congressionally-authorized coins are being minted to commemorate the Statue of Liberty Centennial and to raise $40–50 million for the restoration of the statue and Ellis Island. The new 30-second TV commercial, to be placed on network and spot TV, was produced with a special Paint Box technique and pictures the U.S. Liberty half dollar "rising" sun-like over American scenes, from the Golden Gate Bridge, through the heartland and to the Brooklyn Bridge.

The campaign is under the direction of Richard R. Kiernan, executive vice president, creative services. Producer is Penelope Casadesus, and production company is Broadcast Arts, New York.

Chicken hold-out

In its second campaign for the Chick-fil-A fast food operations, Cargill, Wilson & Acree, Atlanta-based Doyle Dane Bernbach Group subsidiary, is capitalizing on the chain's shopping mall location strategy.

In the TV, radio and print campaign, the spots urge consumers to pass up all the fast food places on the way to the mall and "hold out for the great taste of Chick-fil-A."

"We are positioning the Chick-fil-A product as a special treat found only at the mall," says Barbara Wilson-Anchors, CW&A account supervisor. The television 30 and radio 60 have been made in a generic version and a promotional donut version to give operators the option of adding their choice of promotions available to them. The operators are in 130 TV markets, mostly in the southeast and southwest.

Denny Harris directed the commercials in Los Angeles, and music for the TV and radio commercials was produced by Wild Spot Productions, New York.

Adult target for snacks

New Chiquita Pops are being targeted to adults 18–49 in a campaign starting this week that states, "Goodies have grown up." In the first campaign since Ammirati & Puris won the account from the Chiquita Brands division of United Brands last December, two TV 30s and a print ad will position Chiquita Pops as an "all-family" product by appealing to adults.

With advertising and promotional support expenditures of some $28 million, media is being strategically flighted for 16 weeks throughout the summer months. This includes four weeks of primetime support in shows like *Bill Cosby*, *Family Ties*, *Cagney & Lacey* and *Benson* as well as such specials as *North and South Part II* and daytime soaps and game shows.

One TV spot each was done for Fruit & Juice Pops and Fruit & Cream Pops. With each leading in with young children eating typical "junk" snacks, adults are seen responding to the low calorie and all-natural aspects of the products—with their children ultimately following suit.

Creative unit formed

John Bergin, vice chairman of McCann-Erickson Worldwide, will also become CEO of The John Bergin Group, the agency's new creative and marketing resource. While remaining one of the worldwide operation's two vice chairman, he will relinquish his title of president of McCann-Erickson USA.

Bergin's new group will be able to tap the full resources of McCann-Erickson Worldwide as needed and will work with both existing clients and new clients of its own. Says Jay McNamara, president of McCann-Erickson Worldwide, "We are now formalizing an operation that has been functioning very effectively for more than a year. In a very real sense, this idea has been test-marketed in McCann and the results are outstanding."

Bergin adds, "Most of us on the creative side today—even in 'think tanks' —have precious little time for thinking. We're all into technocracy, and you can see it on primetime. Thinking hurts, but in the long run, thinking sells better."

Neighborhood fix-up

In conjunction with American Home Week this week, the National Association of Realtors is running a PSA campaign urging viewers to participate in neighborhood revitalization. The association is reminding the public that a well-tended community is safer, more pleasant and more stable and that realtors are concerned about these issues.

The campaign is being executed by Planned Communication Services, which specializes in creating and placing public service campaigns. The neighborhood fix-up spot begins with a montage of a dilapidated neighborhood.

Subsequently members of the community are shown pointing out places where fixing-up is needed and ultimately going to work on it. Finally, a wooden sign, reading "Unity," is passed from neighbor to neighbor, then lifted up to become part of a semi-assembled sign over a park. "Unity" helps to spell out "Community Park."

Viewers are advised to "contact your local Board of Realtors to find out how you can get involved in improving your neighborhood."

Comic safety message

Typical Smothers Brothers humor is used to deliver a safety message in a PSA for the National Safety Council and Independent Battery Manufacturers Association. With humorous asides, Tommy and Dick Smothers show the safe way to jump start a dead auto battery.

According to the National Society to Prevent Blindness, two-thirds of the 3,000 auto battery-related injuries reported in 1984 involved injury to the eyes. The PSA was funded by the Independent Battery Manufacturers Association and is being distributed by the National Safety Council to 200 TV stations nationwide. Cavalcade Productions of Ukiah, Calif.-produced the PSA and shot it on film in Sonoma Valley, Calif.

Commercials *(continued)*

Tastykake campaign

Three 30s and four 10-second tags represent Tastykake's second generation of TV advertising created by Weightman, Inc. Advertising, Philadelphia. Based on the original jingle, "Nobody bakes a cake as tasty as Tastykake," introduced by Weightman in 1981, the visuals in the new campaign—including baked goods appearing to represent actual musical instruments—were created to complement the music, rather than the music being scored to match the visuals.

Says Dan Nagle, director of marketing for Tastykake, "Instead of developing another series of commercials with new music, we decided to create new executions against our original, highly successful them. The first campaign emphasized that Tastykake products are the best tasting products and was instrumental in helping us to take business away from our competitors. The second generation spots focus on the finished products, which are designed to convey the enjoyment of actually eating the product."

Coaching for Canon

Ex-Oakland Raider coach and TV sports commentator John Madden is teaming up with Cannon's advanced T-70 camera to launch a new ad campaign created by Grey Advertising. Madden succeeds athletes like the Boston Celtics' Larry Bird, hockey champ Wayne Gretzky and other sports stars who have helped illustrate Canon's theme, "So advanced it makes the tough shots simple."

The new ad finds Madden at the Los Angeles airport, camera in hand, as he exclaims, "I've always been afraid of two things—flying and good cameras—but with this Canon T-70, I'm not afraid." Madden demonstrates how easy it is to use the computerized camera as he zooms in on a team's cheerleaders to capture an array off different shots. He closes by saying, "I'm fearless now," as the team's plane takes off without him.

Competition knocked

Not unlike AT&T's display of its competitors' flimsy telephones, Haworth Inc., manufacturer of office furniture is dismanteling its competitors. In a 30 out of Korey, Kay & Partners, New York, havoc reigns in the office. Slight touches by employees knock down an office partition and a desk, and a sneeze topples every partition in the office.

A toll free phone number is shown on screen with the message, "Call Haworth. They're built." The spots are part of $1.7 million TV and print campaign, using spot TV in 18 U.S. and Canadian markets. Haworth is the third largest U.S. producer of office furniture, with projected 1986 revenues of some $500 million.

Commercials Circuit

Rapid action photography, attractive young models and vibrant dance music highlight a package of Lee jeans commercials edited by **Editel/NY** for **Bozell, Jacobs, Kenyon & Eckhardt.** The commercials alternate between quick shots of a young man and a young woman dressing in separate locales. Separate commercials show young singles meeting at the beach or in the rain. Editor for Editel was **Wendy Whitaker.** Agency vice president/senior producer was **Dan Kohn.**

Director/cameraman **Bob Emery** of **Image Film & Tape,** Tampa, Fla., traveled to Jacksonville for a project for Carrier Air Conditioning and **Hughes Advertising. James VanLandingham,** CEO of Florida Air, Carrier's southeastern distributor, was on-screen talent for the TV 30 and sales presentation. Posting of the TV spot was completed by editor **Bill Lawrence** at Tampa's **Image Edit. Russell Lepre** produced for IF&T.

Sentiment and sincerity were the challenges of director **Manny Perez** of **Perez & Co.,** assigned five 30s for American Greetings' new "In-Touch" cards by **Young & Rubicam.** With the cards oriented toward sentiments rather than occasions, the three vignettes per 30 included a macho man saying, "No excuses—I was wrong" and a shy 16-year-old girl struggling to say, "One of the nicest gifts I ever got was you as a second Dad." Perez's in-house casting director **Deborah Sills** interviewed 150 actors in order to find those who had not been overexposed to commercial viewers. Perez directed actors' eyes away from the camera to enhance the intimacy of their characterizations. Along with Y&R producer **Ian Shand,** art director **Peter Oartali** and copyriter **Joyce King-Thomas,** Perez provided a personal "history" to inspire motivation for each of the cast members.

Sandra Hammond has been promoted to associate producer at **Praxis Media,** South Norwalk, Conn., communications consulting and production company. Formerly production coordinator, she will now divide her time between the proprietary products division, where she will work directly with

Chris Campbell and the creative services division, where she will report to **Dorria DiManno,** vice president/creative services.

A piece of chewing gum was the central character in a cel animation commercial done by **R&B Efx,** Los Angeles for Vita-Fresh vitamin-enriched gum and agency **Eisaman, Johns & Laws/L.A.** R&B director **Rocco Damiano** could envision the animation possibilities sufficiently to do pencil tests as he went along, without having to build models or start working with clay. The animation illustrated how the product could stretch, blow up and "get rude"—anything that other gums could do—with the addition of that "something else." Damiano and animator **Gabor Csupo** worked with EJL producers **Jerry Schnitzer** (now **Jerry Schnitzer Productions**) and **Lynn Berntson.** Jazz piano score was from **HK Sound.**

In a departure from his typical fashion and beauty work, director/cinematographer **Ed Vorkapich** of **Vorkapich/Lipson** recently completed a pair of spots for *The New York Daily News* and **Holland & Callaway.** A wide range of New York locations and readers appear in the commercials, which open with quarterback Phil Simms throwing a pass in a New York Giants football game. Incorporated in this tour of the city and its residents are *Daily News* trucks on their runs and the newspaper coming off the presses.

Cromemco Inc. and **ColorGraphics Systems,** Madison, Wis., have agreed to jointly market an advanced graphics production system geared to TV and commercial art applications. The Art-Star II is a computer paint system providing a high-resolution medium for creating commercials. Under the agreement, Cromemco will market ArtStar II through its national network of dealers. ColorGraphics will sell the system through its internal sales force.

Doing more than a single "freeze" frame, **Bob Pasqualina,** directing for **Myers Film** showed a product spokesperson getting chilled in a frozen food locker to demonstrate that Cool Whip Light 'n Creamy frosting is found in the frozen food section—not in the baking aisle.

Logo design for commercials and IDs will be done at a new animation studio in Atlanta just opened by **Cinema Concepts Theatre Service Co.**—to be known as **Cinema Concepts Communications. Stewart D. Harnell,** president, says the new studio has dual Oxberry animation stands automated by Cinetron computer motion control systems. In its original business, Cinema Concepts has been providing custom production work for almost 10 years predominantly for the motion picture industry.

Live action shots of viewers are juxtaposed with clips from recent feature films in a project directed by **Joe Butt** of **Maverick Films,** New York for HBO. In a spot, "Sold Out," from HBO's direct response agency, **Kobs & Brady,** a moviegoer arrives at a box office to find the "sold out" sign slam in his face. But an off-screen announcer offers tickets to the hottest entertainment events around—all from HBO.

Paint Box artist **Jerry Pojawa** has joined **Editel/LA** as director of digital design. He had been a consultant to Quantel for the last three years.

National Video Center/Recording Studios audio engineer **Mac Anderson** has just completed recording and mixing six radio 60s for Con Edison and **Hill & Knowlton.** The commercials offer Con Edison's free book of "Low-Cost, No-Cost Energy-Saving Ideas" in the style of oldtime radio shows. NVC also completed three spots for **Joe Slade White** and Alascom, Alaska's satellite long distance service. Editors **Glenn Lazzaro** and **Ron Harris** utilized ADO and DVE effects to illustrate Alascom's network of satellites in space.

Silvercup Studios, Long Island City, N.Y., put Promise margarine into a kitchen with an English muffin and toaster for Jennie & Co. and advertising agency **McCann-Erickson.** The studio also duplicated the outer heavens in a Pan American Airlines spot for **Griner Cuesta.** A giant apple and a brownstone setting at the studio backed up an Apple Jacks cereal spot for **Metzner, Bruce, Mitchell.** Three young women discussed their dates at Silvercup in a shoot for Peter Heath & Co.'s Chic jeans by **Leber, Katz & Partners.**

Sherry Owens becomes **Harmony Pictures'** Chicago/midwest sales representative. She had been MTV's director of network advertising sales for the Midwest.

Footage from the 1952 Republican convention was used by **Jenkins Covington Newman Rath,** New York, director **Alex Fernbach** before beginning work for the Wisconsin Milk Marketing Board and **D'Arcy Masius Benton & Bowles/Chicago.** Instead of portraying the search for the perfect candidate, the 30 dealt with the search for the perfect cheeseburger. Scenes of motorcades and orating candidates were broken up by the sight of such cheeses as cheddar, colby and American. Fernbach paid particular attention to lighting and wardrobe to convey the look of the period as he matted a cheeseburger eater into the convention. The burgers were mounted on rostrums and podiums and outfitted with tiny placards as a computer-operated dolly performed pinpoint movements, synced to mini-flash bulbs rigged to enhance the sense of convention hoopla.

Getting into the spirit *of a Wisconsin Milk Marketing Board commercial on the Jenkins Covington Newman Rath sound stage are, front, l. to r., DMB&B/Chicago producer Lisa Muzik and producer for commercial director Alex Fernbach Catherine Bromley; back, l. to r., agency copywirter Steve Coss, director Fernbach and agency senior art director Alan Rado.*

Finding an Alka Seltzer Plus Cold Medicine user who was both a school bus driver and the mother of two children who ride that bus was just the initial phase of an assignment of **PeopleFinders,** New York by **Wells, Rich, Greene,** New York for Miles Laboratories. After that task was accomplished by PeopleFinders president **Laura Slutsky** and project coordinator **Lynn Andrews** in Westchester County, N.Y., and Connecticut, phase two was in Madison, Wisc. Slutsky was accompanied there by project coordinator **Jackie Craig** to recruit 100 Green Bay Packers fans who had never used the product. They were subsequently sent samples and monitored for colds. Finally the spot was shot at Lambeau Stadium in sub-freezing weather, featuring the "real people" selected. **Geoffrey Mayo** of **Geoff Mayo Films** directed the two testimonial 30s.

The New York division of **Unitel Video** has acquired the Ampex Concentrator, which can combine Unitel's three ADO systems for maximum video effects in editing sessions. **John Tierney,** senior editor and director of post production, says, "In addition to saving time and improving the quality of optically mixed video, multi-channel ADO introduces a whole new family of effects. With extra ADO systems, you can set an apparent light source or create ambient light to evoke a three-dimensional feeling. You can also control the density of the video panels, even to the point of translucency."

Director **Jeanne Harrison,** president of New York based **Harrison Productions,** completed directing a series of 30s for Trudy Toys, highlighting the Connecticut company's plush toys. Harrison directed four children in different bedroom sets singing, dancing and doing workout exercises with the toys. Producing for Harrison Productions were **Bill Bragdon** and **Evan Schwartz.**

More than 500 live and video animated images are combined in a 30-second television commercial engineered by **Charlex,** New York for Cherry Coke and **SSC&B: Lintas USA.** "Cherry Boulevard" blends well-known 1950s pastimes with popular crazes of the '80s. Additionally, three 10s, labeled "electronic billboards" by Charlex director **Alex Weil,** center on the "ch" theme, matching Cherry Coke with foods, locations and ideas beginning with the same two letters. For example, in "Cheeseburger," a burger takes a bite out of the Cherry Coke can, which is quickly plucked from a box of chow mein via chopsticks and then is tied in with chimichangas.

Another Coca-Cola USA project out of **SSC&B** went to director **Sid Myers** of **Myers Films,** New York. Here Caffein Free Diet Coke poked a little fun at itself by having a variety of characters tell what else it is free of. For example, Superman proclaims it kryptonite free, Benjamin Franklin certifies it shock free and a telephone operator allows that it's toll free. In easily identifiable settings, these characters conclude they enjoy the beverage "just for the taste of it." Myers executive producer was **Richard Fink.** On the set for SSC&B were producer **Elio DiBiase,** group creative head **Don Gill,** and director **Losang Gyatso** and copywriter **Peter Kellogg.**

Elephant jokes fall into place in three radio 60s created by **Joy Radio's Joy Golden** for Carlsberg Elephant Malt Liquor through **TBWA Advertising,** New York. For example, a guest at a lawn party looking for a big cold Elephant is directed by a maid to an upstairs froom for a conversation with a canary. TBWA creative team was **Tom Peckenham,** producer; **Audrey Shepps,** assistant producer and **Stacey Fryrear,** account executive. The spots were recorded at **12 East Recording,** New York.

Wall Street Report

Walt Disney Productions reestablishes TV presence under new management

In a relatively short period of time, Walt Disney Productions, under the new management team of Michael D. Eisner, chairman and chief executive officer, and Frank G. Wells, president and chief operating officer, has become a major force in the television industry.

Domestic TV syndication and pay television departments were created in 1985, and the company has also reestablished its presence on network television. Among recent network TV developments:

- Launching of the *Disney Sunday Movie* on ABC in February.
- Production of one of the bona fide hits of the 1985-86 primetime season, *The Golden Girls*.
- Two animated Saturday morning children's series—*The Wuzzles* on CBS and *Gummi Bears* on NBC.
- Major commitment for several primetime specials on NBC.

In syndication, Disney began marketing two major packages last fall, both drawing on the company's library. The two packages are Disney Magic-I and Wonderful World of Disney.

In pay-cable, The Disney Channel ended fiscal 1985 (September 30, 1985) with 2.3 million subscribers and is carried by more than 2,500 cable systems.

The company established a video division in 1985 to capitalize on the home video and pay-TV markets. It licensed several movies to such pay networks as HBO and Showtime. And, for the Christmas season released a package of 21 videocassettes including such titles as *Mary Poppins*, *Dumbo* and *Robin Hood*.

First quarter results

For the first quarter of fiscal 1986, ending December 31, 1985, the company's net income rose 8 per cent to $34,716,000 or $1.04 per share from $32,189,000 or 95 cents per share on a revenue increase of 18 per cent to $504,153,000 from $426,530,000. This represented the highest first quarter results in the company's history and was attributed to improved performance in the filmed entertainment area and to a strong showing by both Disneyland and Walt Disney World.

Operating income for the filmed entertainment segment alone (which includes the TV syndication, pay-cable and home video areas) increased by 49 per cent to $22,949,000 on a revenue rise of 61 per cent to $125,702,000. Major contributors were said to be foreign syndication license agreements, higher home video revenues, improved operating results for The Disney Channel and the domestic Christmas reissue of the theatrical feature, *101 Dalmatians*.

For the year ended September 30, 1985, the company's net income rose 77 per cent to $173,491,000 or $5.15 per share on a revenue increase of 22 per cent to $2,015,429,000.

The filmed entertainment segments had an operating income of $33,642,000 in fiscal 1985, compared to only $2,249,000 the previous year, while revenues increased by 31 per cent to $319,986,000.

Worldwide television revenues for the year ended September 30, 1985, more than doubled to $126,297,000.

For the fourth quarter alone, net income was $53,770,000 or $1.60 per share, compared to a loss the previous year of $64,007,000. This was said to reflect management's decision to account for certain unusual charges during the prior year period. Revenues for the fourth quarter were up 27 per cent to $590,521,000.

Walt Disney Productions and subsidiaries

Consolidated statement of income

(Unaudited) In thousands, except per share data

	Three months ended December 31		Twelve months ended September 30	
	1985	1984	1985	1984
Revenues				
Entertainment and recreation	$274,087	$232,600	$1,257,517	$1,097,359
Filmed entertainment	125,702	78,233	319,986	244,552
Community development	67,654	84,129	315,354	204,384
Consumer products	36,710	31,568	122,572	109,682
TOTAL	504,153	426,530	2,015,429	1,655,977
Net income	$ 34,716	$ 32,189	$ 173,491	$ 97,844
Earnings per share	$1.04	$0.95	$5.15	$2.73
Average number of common and common equivalent shares outstanding	33,322	33,718	33,712	35,849

Fowler era *(from page 50)*

other is more difficult, so we're going to have to take our time."

Although deregulation has gone so far that future FCC actions cannot be closely identified, there is the unexpected and the ephemeral.

The agency has gotten to the point, Patrick says, that technology is fueling the issues. "As technology makes new services available, then new issues are presented to the commission .... The mass media marketplace [already] has undergone vast fundamental changes that may result in many different influences."

He names the commission's decision to raise the ownership ceiling from seven to 12 stations, its approach to acquisitions of broadcast properties, coupled with outside influences such as the financial community's renewed interest in broadcast properties, and the increasing cost of production.

"Those changes are going to cause our broadcast licensees to be very creative and very innovative in terms of how they compete in that changing marketplace," he adds. "A licensee may have to consider different approaches to securing a broadcast product. The ad hoc networks, joint ventures, utilizing more first-run syndication products—the costs of the relationships among the players are changing."

If the Mass Media Bureau's work is winding down to routine, the timing probably could not have been better. The Gramm-Rudman budget act required a cut in the FCC's budget by $4 million, along with other agencies. In addition, the administration imposed a hiring freeze.

Fowler says, "We've reduced the size of the agency by 400 people" over the years " and our workload has gone up three or four times what it was when I came into office. So that is getting damned efficient, it seems to me, to be doing that much more work with 400 fewer people."

But the freeze could have its impact when normal attrition occurs. The agency depends to a great extent on veteran bureaucrats who keep the wheels greased. If one of them leaves, and the agency is unable to hire a replacement, the agency's efficiency could suffer, some staffers worry.

John Summers, vice president and head of government relations for the National Association of Broadcasters, believes the commission has gone far enough for the moment. The FCC is at a point, he says, "where we've got to take a hard look at further changes and deletions of rules and regulations in the marketplace." □

Congressional *(from page 54)*

of licensing agreement.

Ironically, the recent increase in station sales serves to hurt broadcasting's cause on Capitol Hill, reducing the amount of sympathy it may garner for what it perceives as an unfair situation. When a matter is perceived as a fight over money between two rich entities, Congress is less likely to consider legislation. And composers, most of whom favor the status quo, are perceived as the underdog in the battle.

Kastenmeier, who was responsible for the initial effort to get the broadcasting, cable and movie industries to work out their copyright problems without legislation, would like to see the same approach taken on the music licensing issue, although it appears less amenable to that type of solution.

On the Senate side, meanwhile, no plans were set by the Copyright Subcommittee on the legislation beyond an April 9 hearing. After that, Thurmond will take control of his bill, S-1980, in the full committee.

Congress sloughs off

The new congressional role as moderator, and its preoccupation this year (and to a great extent, last year) with budget and tax matters has caused it to have little patience with many other issues. If Congress can find a way to slough off an issue, it will, even if there is a large constituency lobbying for it. On the House side this year, Congress is attempting to slough off another issue brought to its attention by outraged constituents—scrambling of satellite signals.

In any other period, the usual expressions of concern and dire consequences to the underdog would have been followed up with concerted efforts to get legislation passed in one form or another. The scrambling issue contains all the elements for demagoguery, but there is no strong push for legislation to redress the grievances.

Instead, members of every stripe are quick to point out that the problems appear to be working themselves out —just give them time. The Justice Department also may be sparing Congress the need to act, as it investigates allegations that programming scramblers are guilty of monopolistic practices in how they make programming available to dish owners.

The Telecommunications Subcommittee chaired by Wirth held one hearing in March and plans another, primarily to hear from representatives of the major networks who also plan to scramble their signals.

The upshot of the first hearing was that the marketplace, although still in a shakedown period, is working out the confusion and presumably will solve the problem if left alone. Congress already passed specific legislation to legalize the backyard dish and for dish owners to receive unscrambled signals. Those laws led to the scrambling that is now the subject of further legislative requests.

But as Tom Rogers, the subcommittee's general counsel, puts it, decoders that will descramble all public signals are being made available, and programming services are developing marketing plans to make their programs available to dish owners. The panel has two key interests in the issue, Rogers says, "access to the programming that's up there, and competitive rates for those services."

Rogers notes that the concern also includes residents of rural areas not reached by over-the-air signals and who would be denied network programming if those feeds are scrambled. The networks argue that their signal is sent to the affiliate in raw form, complete with in-house advisories and advanced programming information that are not aired. Their signals are meant to be private until put out by the local station, they say.

"I think there is a legitimate argument on the part of networks that certain parts of that feed are not intended for public viewing," Rogers notes, "however M/A-Com has made very clear that it is technologically possible to flip the switch so that certain programming which is not intended for public viewing can be protected." That should not be a problem to an affiliate in those areas it didn't reach in the first place, he says, adding that he questions whether enough affiliates would be willing to put up translators to solve that part of the problem.

NAB's suggestion

A suggestion by the NAB at the hearing that translators used by affiliates could solve the problem for the rural areas, Rogers says, is not a realistic solution. "The question is whether there should be scrambling of their signals in the meantime," he says. But, he adds, "What we really need to solve this problem is a technological fix."

Rogers, who often reflects Wirth's thinking, says, "Broadcasters are making a difficult case. On one hand, they are saying in must-carry, 'Make sure cable operators are forced to get us on.' If free TV is the goal, there is somebody with just as much interest in free TV, and that is rural America. Now they are coming to us to say, 'Make sure you keep us off the satellite dish.' There's a

major inconsistency there." There is an economic difference involved, he adds, but doubts that there is "a significant policy difference."

Then Rogers looks down the road, seeing today's fight over scrambling as a jockeying for the marketplace of the future, when he foresees programmers going directly to consumers via satellites and eliminating cable and broadcasters as the middlemen.

"While that is clearly not going to happen in the short term," he says. "I think in the long term, to the extent that program services have a way of being able to directly interact with the viewers without necessarily having a middleman distributor, that that mode of program distribution can really take off in the future, and the backyard dish and scrambling of programming services make that possible.

"The next development that will be needed is some availability for a consumer to be able to buy these services at a very reasonable rate on an a la carte basis. What seems to be developing for the time being is packages of services are being sold by some distributor, a middleman. I think all of this is leading not simply towards direct broadcast satellite reception in a way that that term was thrown around three years ago as a separate service, but actually the primary producer of programming in this country, having a real outlet for reaching viewers through a satellite dish."

Rogers adds that farsighted cable operators see the future and are getting into distribution. Cable needs to reach 70 per cent penetration to take off for ad support. It thus is in a long-term race to reach that penetration before dish-owner growth develops into a larger market.

Two-year moratorium

One of the bills before the Wirth subcommittee is HR-1769, introduced by Rep. Judd Gregg (R-N.H.), who is not a member of the subcommittee. His bill would leave the panel an out in dealing with the issue. It calls for a two-year moratorium on all scrambling so the marketplace will have time to work out the problems now being raised. Those problems center primarily on the availability of descramblers to people beyond the reach of conventional signals and the availability of programming at reasonable rates.

Another bill, HR-3989, by Rep. Mac Sweeney (R-Tex.), would require uniform standards in scrambling and that programming be available at reasonable rates. But Rep. W. J. "Billy" Tauzin (D-La.) is considered the subcommittee leader on the issue, and he is author of HR-1840, designed to promote competition at a fair price for consumers.

At first blush, the moratorium proposal would appear most popular, but Congress is not trying to slough off every non-budget, non-tax issue before it. Rogers says there is a recognition on the subcommittee that "scrambling is here to stay .... Moreover, for Congress to impose a moratorium on scrambling a year and a half after it passed a law essentially validating scrambling and the right of programmers to protect their product through scrambling, would not only reverse an act of Congress, but would be viewed as anti-technology."

And simply banning scrambling is not an answer since data and voice services also are transmitted by satellite and no one suggests that those ought to be available for anyone to tap into.

"I think the focus of the debate is much more on competitive prices," Rogers says. But then he brings it back to the same issue of Congress as moderator. Rate regulation, which has been suggested, is not likely, he says, because Wirth "would like to see competition develop in the marketplace sufficiently so that a governmental response is not necessary .... We have been very successful in pressuring the marketplace to develop in a way that many of the problems have been solved, and we're hoping that pressure will continue and solve the remaining problems."

On that issue, Wirth's Telecommunications Subcommittee is in agreement with Kastenmeier's Copyright Subcommittee, which also looked into the problem with its own hearing.

Simply banning scrambling is not an answer since data and voice services are also transmitted by satellite.

The usual position taken by the Copyright Subcommittee is to leave the 1976 Copyright Act alone. That may bode well for broadcasters and cable operators in the scrambling issue, but it is a strong barrier to broadcaster relief in the music licensing arena.

Other issues before the subcommittee include whether to allow telephone companies to enter the business of providing data transmission and electronic publishing, generally termed "information services." Wirth remains opposed to open entry by telephone companies into electronic publishing because of their potential for monopolies but is amenable to their entry into other information services, so long as the lines between the two are well-defined.

Into all this is stepping the replacement for Wirth, who is running for the Senate this year. Rep. Edward J. Markey (D-Mass.) is considered to have the inside track for the chairmanship of the Telecommunications Subcommittee, but that decision won't be made until December after the 100th Congress has been elected.

Assuming there are no major defeats among the members of the parent Energy and Commerce Committee, and that Rep. John Dingell (D-Mich.) remains its chairman, Markey will have the seniority on the full panel to take the next chairmanship available —Wirth's.

Markey, a liberal who came to Congress two years after Wirth, positioned himself for the Telecommunications chairmanship when he joined the panel last year. Still, he has not been very active in his first term on the panel. □

Danforth's *(from page 52)*

impact of exit polling, but no federal solution could be found to that problem. Some states are considering laws that would restrict pollsters from carrying out their questioning near the polling place.

Smokeless tobacco ads

Meanwhile, the NAB is taking heat from some of its members for being silent for the most part last December when the Senate passed by voice vote S-1574 (supported by Danforth and Hollings and their committee) to require warning labels on smokeless tobacco, similar to those required on cigarettes.

When the issue got to the House a month later, it was amended to ban the advertising of the products on radio and television. The amendment and its quick adoption were the result of a decision by the smokeless tobacco industry to accept a federal edict rather than have to comply with 50 different state laws. The law will become effective by fall.

The NAB, which had fought side by side with the tobacco industry when the cigarette ban was the subject in 1971, feared just such a deal and thus, NAB vice president John Summers says, decided not to become close allies with the industry this time around. Also, he notes, broadcasters are better off with an all-out ban than a provision that would require warning labels in commercials. The former would not establish a precedent. The latter would, he says, and could easily be extended to other products.

Many of the NAB's members remained unhappy with their organization's work, however, and its executive committee decided it wants to look into whether to challenge the new law in court. After consultations with First Amendment communications attorneys, however, there was less enthusiasm for action.

Summers says the decision is to wait until the outcome of *Los Angeles vs. Preferred Communications*, which is to be argued before the U.S. Supreme Court April 29 and may be decided before the current court term expires in July. It, and another case now underway in Puerto Rico dealing with liquor advertising, both touch on the First Amendment. *Preferred* centers around the right of a city to award exclusive cable contracts. *Preferred*'s case is based on the First Amendment arguments that it cannot be frozen out of any community. Broadcasters see the *Preferred* case as a chance for the court to issue a declaration that the electronic media have just as much in the way of First Amendment rights as the print media.

If *Preferred* wins with a definitive decision, broadcasters may be emboldened to challenge laws that limit the commercials they can run. "We're not going to do anything until we see the outcome of those cases and how they impact on the First Amendment," Summers says.

He explains that the NAB position on the smokeless tobacco effort was based on a perceived need to contain the reach of legislation. "Our role was to try to get legislative history language which would clearly distinguish between tobacco products and all other product categories that may only be harmful when misused and not inherently harmful." In that, broadcasters were successful, he adds.

The lobbying effort also had other purposes, he notes. Broadcasters wanted to make sure the legislation did not become a vehicle for a rider that would widen the ban to beer and wine. The association, in addition to stating its own case to its members, solicited letters from key members of Congress to explain the correctness of the NAB po-

Sidelights *(continued)*

Radio, and Morgan Stanley & Co., Inc.

WNYW executives point out that the messages across all media lean heavily on longstanding public familiarity with both the Channel 5 logo and the old 20th Century Fox theatre marquee-cum-searchlight logo, both graphically and in sound, along with Channel 5's top programs.

Thus, the 20-second TV spot shows these logos rising out of the water between New York and New Jersey, with the Statue of Liberty serving as landmark. Then the WNEW-TV logo turns to reveal the new calls, WNYW5. And now all of Fox's former Metromedia stations have this same corporate look across the U.S.

On radio, the same familiar blaring trumpets of the old 20th Century Fox musical logo are featured in spots in which loss of the former WNEW calls is described as minor, compared to the much bigger plus of still having such great shows as *M*A*S*H*, *Three's Company*, *The 10 O'Clock News* and terrific movies. A few samples of the latter coming up in mid-April include *12 Angry Men*, *Plaza Suite*, *A Thousand Clowns*, *Barefoot in the Park* and *Breakfast at Tiffany's*. The TV IDs, nine spots in all, featuring WNYW's personalities, were produced by the station's own staff, in-house. Radio spots and the subway and bus cards were created by WNYW's agency, Berenter, Greenhouse & Webster.

Outside of trade ads by Fox Television Stations announcing their takeover of WNYW and the other former Metromedia stations, a station executive says no special effort was needed for the advertising community because, "Our programming stays the same, our sales staff is the same, our rep, Katz Independent Television, is the same. And everyone at the agencies knows about the new calls. The only question from the agencies is why. But we're the same Channel 5 that New Yorkers have come to know and love for 42 years, ever since 1944, and we haven't missed a beat. We're interested in maintaining our corporate look and identity, so that when we make our step to network it will all be there, familiar to viewers in all our affiliate markets."

Whether needed or not, there was also that no-expense-spared bash at New York's St. Regis Roof April 2, inviting agency friends to help celebrate WNYW's upcoming presentation, via Turner Broadcasting System, of the international Goodwill Games from Moscow in July.

(*continued on page 98*)

Danforth's *(from page 89)*

sition. "All things considered, we're better off with the ban," Summers says.

Another proposed ban, of sorts, also has come up in the Senate. The effort to get something done about suggestive lyrics occasioned a well-publicized hearing by the Senate Communications Subcommittee, but little else. That hearing was held at the behest of Sen. Albert Gore (D-Tenn.) whose wife, Tipper, is a leader in the effort to get music lyrics cleaned up.

Again, credit is to be given to an industry, in this case the music industry, which at least displayed an effort to get agreement on advising music buyers of the content of the songs, primarily through labels on the album jackets. But, again, First Amendment problems also caused members to shy away from the issue.

On the House side, there was even less sentiment for action, and no action was expected.

Also dead, this time aborning, was the FCC's legislative package sent to both houses earlier this year. It was met on both sides of the Capitol with yawns, and in some cases jeers as a waste of paper. Most of the issues addressed in the package had been visited by Congress, aides on both sides say, and came too late in the Congress for any chance of action.

The package sought repeal of sections 315 (equal time) and 312 (reasonable access), the Fairness Doctrine, comparative renewals, and other statutory regulations that the FCC, on previous occasions, had asked to be eliminated.

New among the proposals, however, were suggestions that: petitions to deny not be allowed to allege economic injury; the commission be given the right to prescribe the qualifications it seeks from license applicants; broadcasters be allowed to run commercials or information on all legal lotteries; and the FCC be allowed to waive the requirement of a construction permit for broadcasting stations in those instances it deems advisable.

Although it has no chance to get anywhere this year, Sen. Paul Simon (D-Ill.) says he intends to introduce a bill that would encourage broadcasters and cable operators to come up with a way to deal with violence on TV. Introduction of the bill was delayed, he says, while he attempted to fashion the bill to free it of any problems with the First Amendment.

Subcommittee action

The Senate Communications Subcommittee was destined to be a quiet place this year as Goldwater became preoccupied with the Armed Services Committee (which he also chairs), his ailing wife, and his own decision to retire from the Senate after this year.

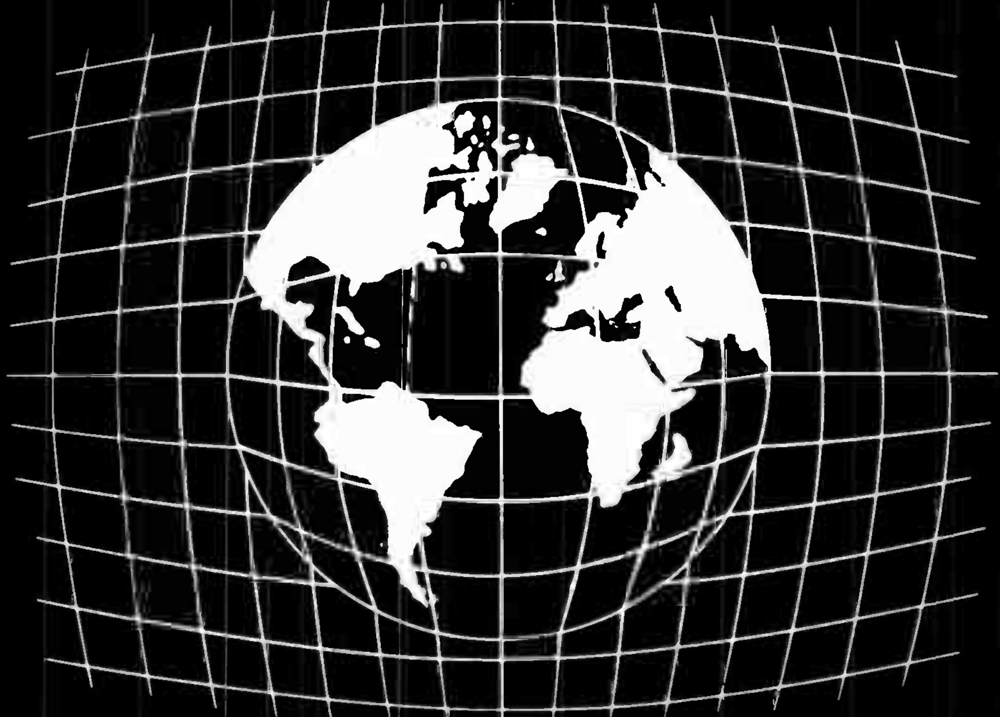
Still, the Goldwater subcommittee has acted on some noncontroversial broadcast-related legislation, including S-2179 to reduce the length of the terms of FCC members. A natural follow-up to previous action cutting the membership from seven to five, the bill would assure a continuity in the expiration of those terms.

That continuity required some juggling in the next terms that two of the five commissioners will serve. That means the term that would be chairman Mark Fowler's second, set to begin July 1, would last for only four years instead of five, expiring in 1990. The vacant seat, expected to be filled by Patricia Diaz Dennis of the National

Gore

A *well-publicized hearing on suggestive music lyrics was held at the behest of Sen. Albert Gore, whose wife, Tipper, is a leader in efforts to get lyrics cleaned up.*

THE WORLD OF TELEVISION FOR THE TELEVISION OF THE WORLD



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Labor Relations Board, would expire in 1989 instead of next year as originally scheduled. The seats now held by Mimi Dawson, James Quello and Dennis Patrick would expire as scheduled in 1988, 1991 and 1992 respectively.

The progress of that piece of legislation, as mundane as it was, served to hold up the nomination of Dennis, a Democrat, because Democrats on the subcommittee wanted to have the new schedule in place before it acted on her nomination.

Without the legislation, her term would have lasted only one year, only enough to serve out the rest of the term vacated by Henry Rivera. Only the Senate needs to act on the Dennis nomination, but the change in terms will require agreement by the House, which is expected.

Tv being tested

Also resolved, at least initially, was the question of whether to televise the Senate floor proceedings. The Senate finally decided on a test, with the audio portion (which had been available for several years as a closed-circuit feed not to be broadcast) made available for airing for news purposes only, on March 12.

ABC News began offering large sections of the proceedings to its radio affiliates, and C-Span began carrying the audio portion on its second cable channel. C-Span also plans to carry live TV coverage of the Senate when a six-week trial begins June 1. After the experimental period ends July 15, there will be a two-week hiatus in both TV and audio coverage while the Senate decides whether to make the operation permanent. If it is made permanent, the coverage season will be short—Congress plans to take its annual vacation from August 16 through September 8 and then adjourn for the year on October 3.

Telecommunications fees

Also completed was an effort begun in the last Congress by the Senate. It levies fees on licensed telecommunications operations to cover the cost of regulation. The levies are expected to raise $100 million for the federal government over the next three years.

The industry did not actively oppose the levies. It considered them a price that had to be paid for the vast amounts of deregulation that has been brought about in recent years. Also, the industry would have been up against a united front that included both houses of Congress and the FCC. The fees were included in an omnibus bill to reconcile the overall budget adopted by Congress with its individual committee-imposed budgets on agencies and programs.

One of the easiest broadcast-related issues the Senate had to deal with was by no means without its controversy. Rodney Joyce, counsel to the GOP side on the House Telecommunications Subcommittee, was tapped by the White House last year to be assistant to David Markey, chairman of the National Telecommunications and Information Administration. The expectation was that Joyce would be named to the post when Markey resigned.

But Danforth had his own candidate in mind—Alfred Sikes, a friend and partner in five Missouri radio stations. Danforth insisted that his candidate be given the post, despite the expectations that Joyce had, and Sikes got it, sailing through a brief confirmation hearing before Danforth's committee.

Goldwater's successor

Another replacement, which won't be made until the end of this year, is for Goldwater. That one also seems, as befitting most other issues the Communications Subcommittee has faced this year, an easy one to resolve.

The former chairman of the full committee is expected to ask for and receive the chairmanship of the subcommittee. When Packwood traded the chairmanship of the Commerce Committee for chairmanship of the Finance Committee at the beginning of the current Congress last year, he wanted to keep his hand in on communications matters and asked for a seat on Goldwater's panel. There was no room, so the subcommittee was expanded to make room for him (he was balanced by adding Gore).

Now Packwood, the junior Republican on the subcommittee, has made it known that he wants to replace Goldwater as its chairman, and Danforth is expected to comply with the request.

That plan, however, depends on the Republicans retaining control of the Senate. That control now is a slim, 53-47 margin, with 22 Republicans and 12 Democrats up for re-election. Hollings is in line for both the full committee and the subcommittee posts if the Democrats win control.

And even if the GOP retains control, individual races could change the makeup of the subcommittee. Two Republicans, Packwood and Sen. Slade Gorton (R-Wash.) are up for reelection this year, as are two Democrats, Sens. Wendell Ford (D-Ky.) and Daniel Inouye (D-Hawaii). □

Deregulation *(from page 55)*

Gammon & Grange, says that, before deregulation, his firm would receive almost weekly calls from clients asking about conforming to FCC regulations. The lawyer's job then, he adds, was "to interface between the station and the staff of the commission. That's virtually all gone today."

He says the average station owner now believes "that the commission doesn't care so long as they contain themselves within the engineering tolerance. And I think they're largely correct. That is the mindset of the commission."

From the lawyer's point of view, says Gammon, a 24-year veteran of communications law, "the old regulation was of the lifted eyebrow. You had so many representations to make to the FCC in your application that the commission never had to write you a letter. Staff would just call the communications attorney and say, 'I think you have a problem with your client.' I would jump through hoops and the client would until we got that quiet voice mollified."

Ernest Sanchez, with the Washington office of the 150-year-old Cleveland-based Arter & Hadden, agrees, although his experience is only half that of Gammon's: "In the past the FCC was very permissive in permitting you to amend an error of some sort in your application. You would submit it. They would send you a letter saying what was wrong with it. You would amend it. They might send you a subsequent letter saying, 'Oh, by the way, you also forgot this,' and it would get fixed, and you would go on into the comparative process."

Marketplace philosophy

Gammon says, "That's all gone today because of deregulation. The mindset of the commission is, 'For Pete's sake, let them go out there and grapple with the marketplace, and whoever survives survives, and whoever doesn't probably wasn't serving the problems and needs of the community.' We would spend hours on ascertaining needs. We had people in hearings because they didn't ascertain well enough. Today, they don't even ask the question."

Holtz adds, "It was good to get rid of petty regulations like ascertainment, petty notices over the air, and publication." On the other hand, he adds, "financial reports were beneficial" as were other minor aspects of FCC regulation.

Erwin Krasnow, former general counsel for the National Association of Broadcasters and now a member of Verner, Liipfert, Bernhard and McPherson, says the broadcaster who called his Washington lawyer in the past about regulations now gone is likely to see his lawyer more as a broker today.

According to Krasnow, the broadcaster asks: " 'How can I maximize my subcarriers? How good a business is paging?' On a syndication contract, 'how can I maximize the deal that I have? How do I get a service mark on something at the station?' "

An individual broadcaster's expenses with a firm such as Bechtel's are reduced as a result of the changes "because once he's in business, his regulation is way down, and his need for your services is way down," Bechtel says.

By and large, however, the broadcaster who is interested in just running his station without any higher ambitions of group ownership has seen a gain by deregulation, Bechtel adds. Deregulation "has reduced their Washington costs significantly." Those engaged in transactions have not been so lucky, Bechtel and others say.

Today, a station no longer has to make a promise to the FCC that might endanger its license later on when the agency charges that the promise was not fulfilled. But has that sort of licensing deregulation saved a broadcaster or potential broadcaster from legal fees?

No, says Gammon. "You file your application, and 16 other applications hit the table. Thirteen of those 16 are looking for payoffs, so now you buy your grant." But the other three may be serious, so "we go through this horrendous process of discovery and hearings to see how the other guy feels about paying big legal bills" and whether he is serious about applying.

Administrative law judges "are fed up," he says, with not having facts filed with license applications and have opened up the discovery process so the lawyers can develop the facts. "Now you're looking for phonies where before you were testing promises. Today there are no promises."

Sanchez adds that when the docket on 80–90 channels opened up for FM, "the FCC said people had to have applications that were virtually perfect; otherwise you would be thrown out. The theory of that was you would have fewer people applying and you would get stations on the air sooner. What has happened so far is everyone gets thrown out and then everyone petitions for reconsideration and there are oppositions to the petitions for reconsideration. A whole new complicated layer has been added that increases the costs substantially and adds new time delays to the whole process."

An example of the change in operation due to deregulation that is often cited is the elimination of FCC control over call letters. Sanchez explains: "Years ago, the FCC considered itself to pretty much have exclusive jurisdiction over call-letter questions. If you had a station that wanted to change its call letters, the FCC would decide whether it was appropriate for him to have those call letters, whether they were in good taste, whether they were confusingly similar to other stations in

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More complications

On the surface, Sanchez says, "there's been a lot of deregulation, and yet the effect of that deregulation has been to create a great many complications that didn't exist before and that couldn't have been anticipated. The result is a great deal more work for lawyers."

Bechtel says a communications lawyer has to learn about antitrust and even about the Federal Trade Commission, since the FCC has ended its control over call letters. Bechtel says he already was into trademark and copyright work for other reasons, "but if I weren't I would have to learn more about that" in order to serve his broadcast clients.

Bechtel and other communications lawyers say the emphasis of communications lawyers has changed a great deal from that of being strictly a communications lawyer to being one who knows a lot about business, antitrust law, copyright, and many other aspects of business now impinging on broadcasters.

Bernard Koteen of Koteen and Naftalin is a senior member of the communications bar, having entered private practice 2½ years after joining the FCC in 1946. He has seen more changes in the practice in the past 10 years, he says, than in the previous 30.

He is finding his firm changing to one of "corporate law activity which requires a communications expertise in order to make sure a client is protected against the sorts of things you can be blindsided with at renewal of contract time." Before, Koteen says, "you needed a good knowledge of communications law and the substance of communications practice for stations. Now you have to know about sale amortization and all those sorts of things in order to do a decent job contract for a transaction." And the lawyer has to "make sure you get your network affiliation, see how receivables are handled, see what kind of warranties are on the equipment."

The reason for the shift to a business emphasis is the churn that the industry has been undergoing the past several years. The FCC has expanded the number of stations an owner can have from seven to 12, be they AM, FM or TV stations, is in the process of allocating about 700 new FM channels and is considering ways to improve AM. But the reason cited most often for the heavy interest in transactions is the elimination of the rule that said a station owner used to have to hold his license for at least three years before he could resell it. Now there are no limits.

Gammon didn't know it at the time, but he was establishing himself as a leader in a new form of growth business when in 1981 he began Gammon & Ninowski Media Investments, Inc., a broadcast brokerage firm. "At that time, I totally underestimated the nature of the brokerage business," he says.

Bechtel, who has been practicing communications law since 1958, says that the recent deregulation period "is when people started coming in and filing for every television channel that

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Hall of Famers

Mel Allen, who along with Earl Nightingale will be inducted into the NAB Radio Hall of Fame this week, has occupied a special spot in radio sports since he began broadcasting the New York Yankees as part of the radio team back in 1939, about a year after CBS assigned him to cover the dedication of the Baseball Hall of Fame in Cooperstown. Allen began his broadcast career while a student at the University of Alabama.

During his college days, sports announcers weren't plentiful, and Allen was asked to fill in when the regular announcer of the football games took a leave of absence. Then his name was submitted for the regular announcer job, without his knowledge. He auditioned and got the job, after recreating some minutes of a Rose Bowl game. After two years, and $5 per game, Allen joined CBS.

Allen

Nightingale

He was the voice of the New York Yankees for some 25 years, up until 1964. At present, Allen is the host of the syndicated TV show *This Week in Baseball.* But Allen has fond remembrances of announcing Don Larson's no-hitter or the 56-game consecutive hitting streak of Joe DiMaggio. "I get a thrill thinking about those times and having been privileged to announce during those times."

Nightingale is the "grandaddy" of the booming motivational industry. His company—The Nightingale-Conant Corp. in Chicago—is best known as a producer of motivational spoken word audio cassette programs, featuring such personalities as Norman Cousins and Art Linkletter, and, most recently, Lee Iacocca. But the company also syndicates *Our Changing World*, a Monday–Friday radio show of Nightingale's philosophy, to over 800 radio stations, mostly MOR, C/W, talk and beautiful music. *Our Changing World* has been syndicated since 1959. Previously, he worked at WGN and WBBM in Chicago, KTAR in Phoenix, and WJNC in Jacksonville, N.C. He was also the voice of radio's *Sky King* from 1950–54.

(continued on page 100)

Deregulation *(from page 96)*

was open. They had been sitting there for 20 years; now all of a sudden they're filing for them. Now it comes along with the FM channels. Every single FM channel attracts a lot of people. What was responsible for all of those people all over the country all of a sudden focusing on communications opportunities in Washington? I really don't know. Whatever that was, I think that's what started the bandwagon. They could have been activists, promoters, Edward Johnsons of the world who publicized the availability, or it could have been publicity throughout the country about deregulation, which in turn talked about new opportunities. But that's when it started."

Gammon believes, "In the late '70s, independents started getting national business. They were just sort of discovered by Madison Avenue. With that, they became much more attractive and much more valuable, so people started filing for the ones that were just sitting around." That, he says, generated the new TV hearing process business for lawyers such as himself. "If you file, and I file, we have to have a hearing."

Three-year rule

With the elimination of the three-year rule, Krasnow says, "Bankers for the first time in recent years now look on radio broadcasting as a viable place to put their money. With the three-year rule gone, that means basically that you can buy a station, close on it and the next day sell it."

It may be helping his colleagues find new clients, Holtz says, but, "Abolition of the three-year rule was a disastrous mistake. There is evidence of people coming in, then getting out with a profit margin and when they were in, they cared less about programming and less about public interest."

The changes also have created a period of uncertainty among communications lawyers. Blake says, "Twenty years ago, I could say with some assurance that what I would be doing three years hence would be quite close to what I was doing at that time." He could say, for instance that 20 per cent of his time would be spent on advice to broadcasters on dealing with the federal bureaucracy, and that certain renewals would be up in a certain year. "Now I would be crazy in the head to make a statement like that about what I will be doing three years from now."

But none of the lawyers is worried about where the money is going to come from in communications law, not even in the broadcast end of it. Although most are expanding their practice to cover other parts of telecommunications, most believe the current deregulation fever is only temporary.

Krasnow, a leader in the fight for deregulation while at the NAB, is the exception. "I think deregulation is here to stay," he says. "We're not going back to the days when the FCC was the leader in paperwork among government agencies."

But Holtz is advising his clients to try to keep the same records they used to keep under the old regulation. When he entered the field in 1955, he says, the commission was not very tough. Then came the "wasteland period" and a concern about disenfranchising minorities. "In those days everyone challenged a license renewal, and public interest groups had a heyday. I think that five to 10 years from now we'll see a swing back to more regulation, but more intelligent regulation."

Koteen agrees. "The pendulum may swing again, and if it does, and broadcasters are attacked, they'd better be in a position to demonstrate that they have served the public interest, which the statute still requires although there is not a great deal of emphasis on it today."

Bechtel also expects to see a return to regulation: "I think there will be a reregulation in the future. I think a lot of people figure that the pendulum will swing back and then there will be more regulatory work. In the last 25 years, I've seen it happen a couple of times. If a Democratic administration comes in, surely the activists will surface in a lot of areas, including this."

Henry Geller, head of the Washington Center for Policy Research, a former FCC general counsel, head of the National Telecommunications Information Agency and now a broadcasting gadfly, is not sure how active the activists will be. To him the biggest change of the past few years has been financial trouble that public interest groups have seen.

Gammon says there may be more to a reregulation than a pendulum swing. "If you give enough people enough rope, some people are going to do silly things. There's going to be a public perception that broadcasters are unresponsive to the public's needs and they're living off the airwaves," the type of thought process that characterized the past, he says.

"Somebody in the FCC will get enough of a majority and come out with new regulations or just modify the policy."

Krasnow is sure enough about the continuing deregulation mode that he proffers his book, *101 Ways to Cut Legal Fees and Manage Your Lawyer*, which includes advice on avoiding "over-lawyering," and finding free legal help. □

In the Picture

Grant A. Tinker

Approaching the last few months of his five-year contract, the CEO of NBC is vague about his future plans, which are affected by the takeover of RCA by the General Electric Co.

NBC chairman, at crest of career, to accept NAB's highest award

It's ironic that at the crest of his prestige and on the eve of his being given the Distinguished Service Award by the National Association of Broadcasters, the most widely speculated question about Grant Tinker is when he's going to leave his job as chairman of the board and chief executive officer of the National Broadcasting Co.—soon to be part of General Electric, as it takes over RCA.

He's made clear—to the press, at least—his yearnings for the manifold attractions of the West Coast, including, but not confined to, the lure of his hearth. His brutal, inter-coastal commutation schedule has been commented on and his leanings toward the informal lifestyle are well-known.

Yet, when it is suggested that his leaving NBC "is not far off," he demurs at even that vague timetable. The fact is that, as he approaches the last few months of his five-year contract, he is not prepared to say publicly what he intends doing. Nevertheless, he leaves the impression he doesn't want to hang around NBC very long.

While the NAB award comes only half a decade after Tinker's assuming the reins of a network unhappily ensconced in third place in primetime and moving it into leadership, it recognizes the quality of a much longer career. Specifically, this refers to his activity as president of MTM Enterprises for 11 years just prior to his mounting the NBC throne. During his MTM tenure, the company produced *The Mary Tyler Moore Show*, *The Bob Newhart Show*, *Phyllis*, *Rhoda*, *WKRP in Cincinnati*, *Lou Grant* and *The White Shadow*. Currently, the company is turning out *Hill Street Blues*, *St. Elsewhere* and *Remington Steele*. Most of these programs are considered a cut above average—at the least.

It's characteristic of Tinker that he doesn't take credit for most of the creative decisions made under his stewardship—the mark of a supremely confident man. When he came to NBC, his style was marked by delegation of responsibility. When asked recently whether that represented a philosophy of management, he not only answered in the affirmative but added that it was a philosophy that "reflects my own limited ability." Few executives could utter that disclaimer with more grace.

He made clear that he not only believes in giving creative people their head, but executives in general. He tries, he says, to provide a "comfortable [working] climate"—but not a relaxed one.

Programming point of view

The "literate" image that accompanied Tinker when he took the reins of NBC was clouded somewhat by the launching of *The A Team.* Its undeniable appeal salvaged his reputation somewhat, but he doesn't duck the issue. "I've made my peace with what a network is. I used to think of it as a boutique, not a department store." But the department store concept is necessary, he finally concluded.

He does have a point of view regarding how a network should be properly programmed. "I've been harping on balance. There's too much entertainment and not enough reality." What he means by "reality" is not strictly hard news, but "news-related" programming.

What about ratings? Why is it so important to be number 1, even if it's by tenths of a rating point? Does he believe that ratings are accurate? Tinker: "The outside world has imposed [that degree of] competition on the networks. What we wanted is a schedule to be proud of. Being number 1 is icing on the cake." Still, Tinker is well aware of the advantages, financial and psychological, of being number 1. As for the validity of ratings, he depends on the opinion of the experts. "If Bill Rubens [vice president of research] tells me that Nielsen is valid, then that's it."

What about program research? It is predictive? What does he think about using research to decide on whether a program will be successful? Tinker: "It doesn't give you certainty, but it's a valuable tool. Brandon [Tartikoff, president of NBC Entertainment] would be foolish if he didn't use all the help he can get. But we don't abdicate our responsibility [to make the final decision]."

What about demographics? Does he consciously look for specific demographics when he makes a program decision? Is it just chance that NBC has such "good" demographics? Tinker: 'I've never taken a show because of the demographics—not up front. The reason for the good demos is that Brandon and I think the same way. We go to a certain type of creative person."

Tinker became chairman and CEO of NBC on July 8, 1981, and was elected to the RCA board March 6 of last year. This is his third tour of duty at NBC. He began his broadcast career in 1949 as an NBC management trainee and left three years later to spend more than seven years as a television program executive with three agencies. In 1961, he went back to NBC as vice president and general programming executive and then left the company again in 1967, at which time he was vice president, programs.

Tauke and Tauzin

Reps. Thomas J. Tauke (R-Iowa) and W. J. "Billy" Tauzin (D-La.) make an unlikely congressional duo, not only because they are members of opposite parties. Tauke is the more formal, stiff and intellectual of the two, Tauzin more the down-home, black-slapping jokester.

Tauke has been known to visit Federal Communications Commission Chairman Mark Fowler in his office, while many of his colleagues would summon the chairman to their office. Tauzin wowed broadcasters earlier this year at the National Association of Broadcaster's conference for its state presidents and executive directors when he teamed up with fellow Louisianian Ray Saadi to demonstrate how to and how not to lobby.

But the Tauke and Tauzin philosophies about broadcasting have made them bedfellows enough to earn this year's Grover Cobb Memorial Award from the NAB usually given to the person "who is dedicated to improving the broadcasting industry's relationship with the federal government," in honor of the former chief lobbyist for the NAB.

Neither was around when Cobb was lobbying Capitol Hill. Tauke began his congressional career in 1979, and won a seat on the House Telecommunications Subcommittee the first year. Tauzin took his seat in 1981, but didn't join the subcommittee until last year. Tauke will be 36 this year, Tauzin 43.


Tauke


Tauzin

NAB chose to honor them because of their co-sponsorship of a broadcasting deregulation bill (HR-2382) during the 98th Congress of 1983–84. The bill, which would have eliminated the comparative renewal procedure, became widely known simply as "Tauke-Tauzin," and drew 230 co-sponsors from among the 435 members of the House, enough to put Tauke and Tauzin in a position to negotiate with Chairman Timothy Wirth (D-Colo.) in trying to fashion a compromise that would add television to the radio deregulation embodied in the already passed S-55 in the Senate. The effort failed, but the pair won the appreciation of the NAB, which had suffered one of its worst two years on the Hill.

Ironically, the broadcasters ended up opposing the measure when equal employment opportunities, "quantification" of a station's meeting community needs, children's programming requirements and other provisions were added to the developing compromise version of Tauke-Tauzin. The NAB finally said the bill didn't go far enough and would codify into law elements of FCC regulations that they were trying to eliminate.

Just before last year's NAB convention, the two paired up again to co-sponsor another bill, HR-1977, a new version of their previous bill, but they knew when they introduced it that it would go nowhere in this Congress. □

Inside the FCC

Lee Loevinger

Partner in the Washington law firm of Hogan & Hartson and former FCC commissioner in an article in "Jurimetrics: Journal of Law, Science and Technology," published by the American Bar Association.

Technological development faces increasing restriction from forces of government

The impact of law on science and technology has not only been as broad as the impact of scitech on law but probably has been deeper. One of the earliest and most dramatic confrontations was that of Galileo in the early part of the 17th century. In 1543, Copernicus had published his great work "On the Revolution of the Heavenly Spheres," hypothesizing that the earth revolved around the sun, rather than the sun around the earth. At that time there was no unambiguous empirical evidence supporting the Copernican hypothesis. Nevertheless, it was widely studied and discussed by scholars, although many theologians condemned it as heresy.

Early in the seventeenth century Galileo made observations of the solar system which convinced him that the Copernican hypothesis was credible and was not contrary to Scriptures. His argument included the epigram that the Bible teaches how to go to heaven, not how the heavens go. However, the church authorities, who then represented the law, objected to the method of Galileo as much as the hypothesis of Copernicus. These authorities then believed that the route to sure knowledge of the world was by studying the Scriptures, not by observing nature.

Accordingly Galileo was warned by a cardinal that the Copernican system was false as opposed to Scripture, that it was to be considered merely hypothetical, and that Galileo was not to speak out too forcefully in favor of it. When Galileo continued to write a book considered to be sympathetic to the Copernican view, he was summoned before the Inquisition and threatened with torture unless he renounced a belief in the truth of the Copernican system. Galileo complied and thereafter was kept under house arrest until his death. Contrary to popular impression, Galileo was not accused of heresy but of disobeying the command of authority. The issue was whether truth was to be discovered by observation and trust in the senses or by interpretation of Holy Writ.

Although the great issue between Galileo and the authorities has long since been settled by general agreement that religion and science do not really conflict but apply to quite different realms—that of faith and that of observation and reason—the conflict between law and science continues in other fields. *Science*, the prestigious journal of the American Association for the Advancement of Science, has protested the suppression by military authorities of papers scheduled to be read at a scientific symposium, declaring, "The relationships between the government and the scientific and technical communities continue to be sorely troubled as the fixation on the 'hemorrhage' of technology hardens." The dispute continues to rage over the publication of certain scitech research results thought to have military significance. The reasoning and the slogans have changed, but the battle between science and legal authority is no more ancient than current journals.

The major impact of legal authority on science and technology has not been as basic or dramatic as the occasional confrontations over the publication of research results, but it has been much more widespread. There is scarcely a product or activity of technology that is not subject to legal regulation. The American system of regulation really started with establishment of the Interstate Commerce Commission in 1887, to make rules for operation of the railroads. Since that time regulatory agencies and laws have proliferated. There are federal government agencies making rules for truck, rail and air transportation, all forms of electronic communication, electric power and natural gas, nuclear power and use of radioactive materials, foods, drugs and cosmetics, industrial discharges into the environment, automobiles, biological and genetic experimentation, social science experiments, production machinery and workplace environment, agricultural production, and consumer products generally. Indeed, it is difficult to think of any product or activity of science or technology that is not controlled or affected by government action.

Control of technology

Probably the most important issue in the relation of law and science in the age of technology is what controls shall be imposed on scitech. Since any controls must necessarily be somewhat flexible as circumstances change, this largely reduces the issue to: Who controls?

The natural reaction of most scientists and engineers is that there should be no controls, which is to say that the scientists and engineers themselves should control their own activities. Philosophically there is much to be said for this position. There are three practical difficulties. *First*, modern science and technology, with rare exceptions, require substantial supporting funds and structures. These come mainly from business or government. There are a few nongovernmental universities and foundations that support research, but most of these are largely dependent on government grants and subject to government regulation. It is elementary that when government provides funds, government regulates the activity.

Second, the activities of modern technology appear to present certain threats which the general population feels must be protected against. Environmental pollution and dangerous drugs are obvious examples; while the almost neurotic fear of nuclear power by some is another attention-getting illustration. *Third*, the present era is one in which government control of all activity except thought and speech seems to be increasingly accepted as the norm, with the burden of proof on those who would carry on an activity without it. Deregulation, now in vogue, is likely to slow or arrest the growth of regulation but not to reverse the trend.

An alternative likely to be favored by economists is to let the market control. As a practical matter, this means to let business management make most decisions. This alternative encounters the same practical difficulties as the first alternative, mentioned above, plus the fact that, in the United States where business has been most successful, business seems to be distrusted by the general public. The third alternative, espoused by populists, politicians and the legal establishment generally, is that the controls of sci-tech should be determined by the political and legal process, which is to say by the law speaking through legislators, lawyers and judges.

Unfortunately the debate has been largely foreclosed by legal preemption. Since the time of Galileo, scientists and engineers and their technological products have been increasingly subject to legal constraints. To insure the result, while government control has been growing, government has acted to forbid effective control by either scientists or engineers themselves or by business firms.

Illustrating the trend

Two recent cases illustrate this trend:

For many years professional engineers who designed and supervised construction of large projects, such as bridges, office buildings, airports, sewage systems, and the like, had a professional code of ethics which declared the solicitation of work by competitive bidding unethical. The Justice Department brought suit against the National Society of Professional Engineers (NSPE) charging that this ethical canon was an illegal restraint of trade. NSPE responded that engineers could not honestly and competently estimate the cost of designing a structure until they had access to information that would be available only after the engineer had been engaged and started work.

NSPE offered substantial evidence that competitive bidding was dangerous to public safety and had led to a number of structural failures and disasters. The Supreme Court noted that NSPE provided ample documentation for its thesis, but held that it was irrelevant. The rule of law embodied in the antitrust statutes is that competition is the sole standard for determining the legality of agreements such as those embodied in professional or industrial codes of ethics, so a canon against solicitation of engineering business by competitive bidding is illegal regardless of evidence that it protects the public.

In a later case the American Society of Mechanical Engineers (ASME) had promulgated various codes for safety standards in areas of mechanical engineering, including the structure of boilers and pressure vessels. Although the codes were only advisory, they were widely followed by industry, as well as by many states and federal agencies. The boiler code included provisions for low water fuel cutoffs. Hydrolevel Corp. marketed a low water fuel cutoff which varied from the standard construction. A competitor, the dominant manufacturer of such devices, then sent an inquiry to ASME asking whether the Hydrolevel device complied with the code safety standards.

Executives of the competitor then drafted a reply to the inquiry stating that the Hydrolevel device did not comply with ASME code standards and arranged to have the reply sent over the signature of an ASME employee. In these circumstances, the Supreme Court held that ASME was liable to Hydrolevel for damages under the antitrust laws. The circumstances of this case are particularly unappealing; but the principle that a professional organization can be liable for large damages because of misuse of a standard promulgated to protect the public is not likely to encourage professionals and experts to engage in the labor of providing such guidance.

Court-extended government

These two cases illustrate how government control can be extended by the courts statutes whose authors never dreamed of the situations to which the courts apply such laws. Lower courts have been even more willing—some might say eager—to extend the scope of judicial control than the Supreme Court. The U.S. Court of Appeals for the District of Columbia has held that the Nuclear Regulatory Commission (NRC) could not issue a license to operate a nuclear power plant until the NRC had held rulemaking proceedings and determined industry problems of fuel reprocessing and waste disposal.

The same court held that the NRC could not issue a construction permit for a nuclear reactor until it had considered the possibility of energy conservation measures as an alternative to construction of the nuclear reactor, also saying that the report of an Advisory Committee on Reactor Safeguards, composed of outside experts, was required to carry a short explanation understandable to laymen of the matters reported on by the experts. The Supreme Court reversed both decisions, but only after construction and operation of the plants had been delayed for many years.

If any still doubt the importance of law to science and technology I invite them to ponder whether the steam engine, the internal combustion engine, or any other major mechanism of the industrial revolution would have been developed or utilized had contemporary regulation then been in effect.

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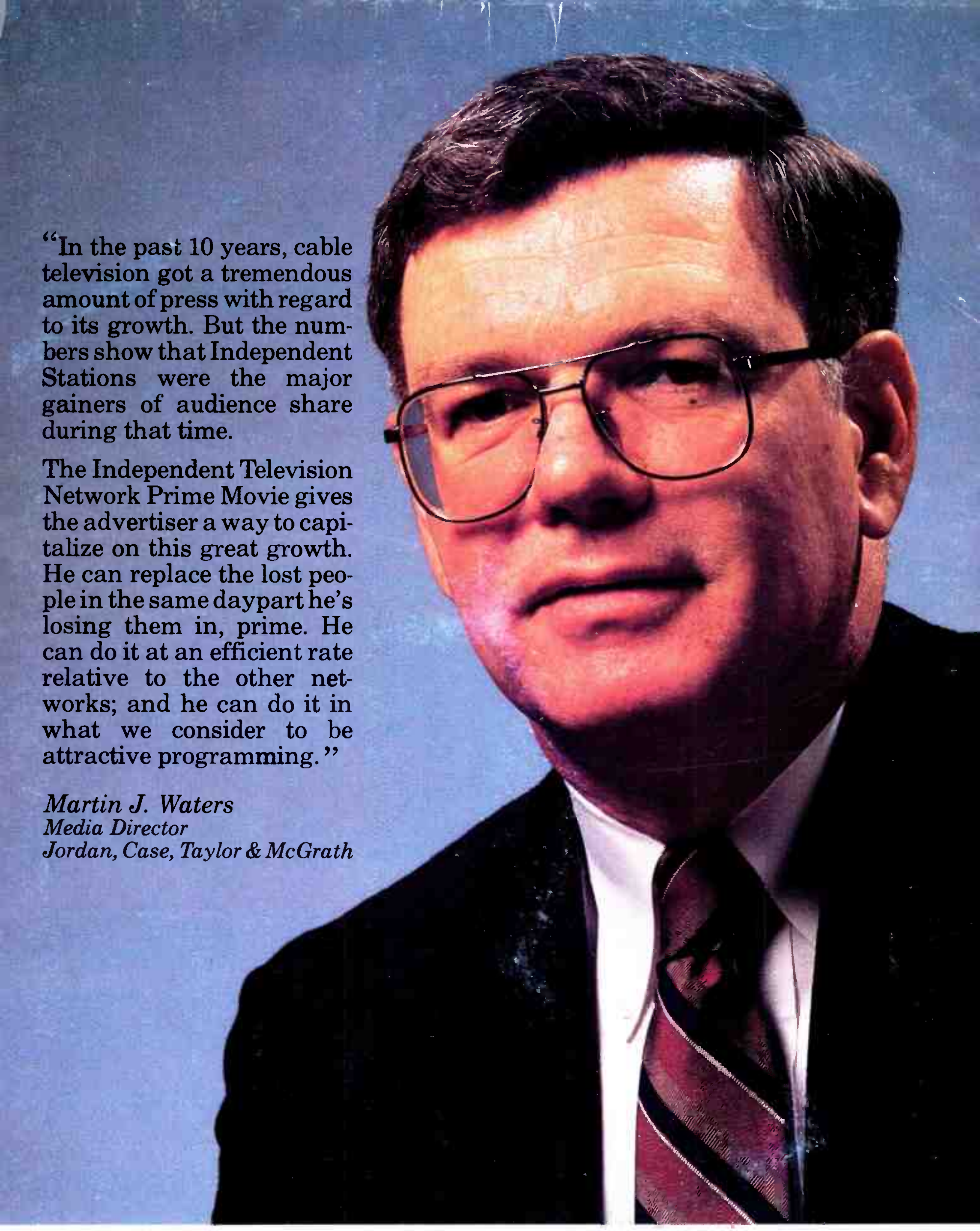

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