

casters' filing said Metromedia's filing places the issue of the "involuntary superstation before the commission." NAB urged the commission to act expeditiously, so that station efforts to serve the public "should not be left helpless by regulatory inaction or inattention to significant unresolved legal and policy issues."

MPAA has opposed the creation of satellite superstations in numerous pleadings before the commission. Its position is that staff action in this matter violates the legitimate property rights of broadcast stations and program producers by allowing common carriers to retransmit without prior consent.

ASN also had its say. "At most . . . the allegations merely raise the possibility of some private harm," its filing said. "This is clearly insufficient for the commission to deprive a large segment of the public of a wide variety of program sources at reasonable cost."

Metromedia has asserted that the staff committed procedural errors in the proceeding, that ASN is not a common carrier and that the retransmission of KTTV's signal without Metromedia's consent violates the Communications Act.

Cable hides behind FCC when it comes to franchise fees

Industry urges commission to keep limits on local jurisdictions

The cable television industry, not surprisingly, favors retention of the FCC rule limiting the franchise fees that local authorities may impose.

In comments received last week at the commission, the cable consensus was that allowing local franchising authorities to set their own rates would result in consumers paying higher prices for the same services. Cable system operators claimed they would have no choice but to pass along a fee-raise to consumers in order to maintain program diversity.

The FCC rule now limits franchise fees to 3% of gross revenue or up to 5% if a strong enough case can be made by local authorities.

The National Cable Television Association's filing said, "The point is that franchise fees do not come about through the give-and-take of consumers deciding what services they would like and sellers deciding what services to offer. Instead, franchise fees are basically a take-it-or-leave-it proposition offered by the franchising authority which has intervened in the marketplace and has all the cards."

The nation's largest CATV systems operator, Teleprompter, added that the "conditions which existed nearly a decade ago and which required the commission to regulate the excessive demands of non-federal franchising authorities remain unchanged." Similar comments were sent

in by the nation's two other leading CATV system operators, Tele-Communications and American Television & Communications.

A joint statement by 69 local CATV operators cited FCC Chairman Charles Ferris's remarks before the NCTA convention in Las Vegas May 23 as the strongest point for maintaining existing limits. Ferris said "... I question the wisdom or propriety of government interference with technological advances as these usually increase consumers' welfare by lowering prices and stimulating innovation and diversity..." The statement went on to say that the FCC's responsibility in this matter is to regulate state and local

government regulation of CATV.

Most comments in opposition to repeal of the rule also argued that if the FCC should adopt its proposal, federal pre-emption of regulation of pay cablecasting should not be withdrawn.

There was, however, a voice in favor of repeal of the franchise fee limit. It came from the city of Yakima, Wash. The city believes that discretion is used in setting franchise fees because local authorities can hike fees (to raise revenue) only to the extent that demand for cable exists. The Yakima comments added that the FCC's role should be one of advising local authorities on how to make informed regulatory decisions.

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