

work is not an infringement of copyright if the carrier involved "has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission," and if the carrier's activities in connection with the transmission consist only of providing "wires, cables or other communications channels for the use of others." Eastern's carriage of the programming of the 16 stations, it says, is based on customer preference.

Doubleday, on the other hand, argues that Eastern Microwave is not neutral regarding the content of the material it retransmits—as is, say, AT&T. In selecting the signals of WOR-TV for carriage, Eastern Microwave is exercising the kind of content control that disqualifies it as an exempt carrier, Doubleday contends.

The WGN-TV case involves an effort by the station to transmit program schedules as a test of a teletext system. WGN-TV notified United Video on Jan. 30 that the material—which can be viewed only on specially equipped receivers—would be included in the vertical blanking interval during broadcasts beginning on Feb. 10. And the 9 p.m. news, one of the programs in which the material was contained, was recorded and copyrighted.

But United Video, WGN-TV said in its complaint, stripped the material from the news program on Feb. 12 and from other WGN-TV programs on that and other days and substituted its own teletext material

which it "sold or intends to sell . . . for its own commercial profit." United Video distributes Dow Jones business news service.

WGN-TV contends United Video's satellite transmission of the WGN news program in a "mutilated and altered" fashion was an infringement because United Video exercised direct control over the content of the primary transmission of the WGN news program, in violation of Section 111(a)(3) of the Copyright Act.

The station also contends United Video interfered with an agreement between WGN-TV and Albuquerque Cable Television Inc., in Albuquerque, N.M. The cable system was to have supplied the teletext material in the news program to some subscribers equipped with decoders. If United Video's "unlawful acts are permitted to continue," WGN-TV said, it and ACTV "will suffer immediate and irreparable injury in that the experimental program envisioned by the agreement will be entirely frustrated."

United Video responded to the court with a request for dismissal or for summary judgment. United Video contends that while the news program can be copyrighted, the teletext material involves a separate transmission not only in terms of content but physically, in that it is not viewable on ordinary television receivers. And since it did not carry WGN-TV's teletext transmissions, United Video said, "there can be no claim of infringement." United Video said the station, "by this

contrived complaint, is merely attempting to obtain a 'free ride' on United Video's satellite for its teletext transmissions without payment of a retransmission service which United Video and other common carriers already offer . . ."

Indeed, United Video contends transmission of the teletext material would constitute possible copyright infringement. Since those transmissions are not receivable without the use of a decoding device, it said, they constitute a "primary transmission to a controlled group," under the law. And unauthorized secondary transmissions—unless required by FCC rules, which they are not—would be "grounds for infringement."

## Louisiana AM applicant rebuts KOB's objection

**Seeker of 770 khz tells FCC that Hubbard's request for commission to postpone action on station is delay tactic**

Describing a Hubbard Broadcasting Co. filing in opposition to its application for a new AM facility on 770 khz in Lafayette, La., as based upon "speculative, hypothetical and unlikely future commission determination," Jackson & Chaisson Broadcasting System Inc. called on the

# when UNCLE JULIO SPEAKS

**Millions listen.**

**Because Uncle Julio speaks to Spanish-Americans like no one else has. In Spanish. On subjects important to them.**

**There are 25 million Spanish-speaking Americans. No wonder "Ayer, Hoy y Siempre" is one of the fastest-growing public service radio programs available. The story teller, Uncle Julio, is compelling. The dramas, relevant. The non-sectarian message is from the Christian Gospel.**

**The programs are free for sustaining public service broadcast. We invite you to sample this 15-minute program. Just return the coupon for an audition tape or more information. Or call Vi Knickrehm at 314-647-4900.**

Mail to:  
**International Lutheran Laymen's League,**  
 Ayer, Hoy y Siempre, 2185 Hampton Avenue, St. Louis, MO 63139  
 Please send me an audition tape of "Ayer, Hoy y Siempre."

NAME \_\_\_\_\_ TITLE \_\_\_\_\_

STATION \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/STATE/ZIP \_\_\_\_\_