

one applications. That would create "a complete, definable universe" of applications that the FCC could deal with, he said. "It's time to close that window and get tier one out of the way so that we can open up tier two."

While the LPTV branch waits for its software and database to be completed, Kreisman said, it is processing more than 100 applications per month. Only about 20 applications are granted each month, however, she said. Most of the applications handled are found to be mutually exclusive, she said, and are thus being set aside until the lottery

mechanism becomes available. And, she said, a few of the applications are dismissed because they are incomplete or "have some other defect."

According to Kreisman, a 10-year FCC veteran whom even Hutcheson praises as being an effective administrator, all of the LPTV branch's parallel efforts to institute the computer system and speed the processing of applications are "on target" and, if all goes well, the branch will be able to fulfill Fowler's latest promise. And the FCC might finally get some relief from its LPTV migraine. □

Black Tuesday descends on cable industry

MSO's drop distant signals to avoid paying increased copyright fees; total impact not yet known, although MSO's may not be hit as hard as feared

Higher cable copyright fees ordered by the Copyright Royalty Tribunal last fall went into effect last Tuesday (March 15) after the U.S. Court of Appeals in Washington at the 11th hour rejected requests to postpone the implementation of the new rates.

The CRT order includes an across-the-board hike in payments for all distant signals imported by cable systems, but March 15 was being called "Black Tuesday" by many cable operators because the order also requires cable systems with basic revenues in excess of \$214,000 every six months to pay 3.75% of those revenues for so-called "additional" signals—signals prohibited under the old FCC rules limiting distant signal importation and added since the rules were officially dropped on June 24, 1981.

Because of the 3.75% rate, many cable systems have been dropping additional signals since late last year to limit their copyright liability (BROADCASTING, Jan. 3). The

dropping of affected signals reached a climax on Monday, the last day the signals could be carried at the old rate. Storer Cable, for instance, said Storer spokesman Andy Holgate, dropped 87 signals from 66 of its cable systems on Monday. And according to Jim Duffy, a spokesman for American Television & Communications, most of the ATC systems that dropped signals waited to the last minute. In all, 28 systems dropped 38 signals, he said. (According to a ruling of the Copyright Office, if a cable system carried an additional signal after midnight of March 14, it was liable for copyright payments at the 3.75% rate for the last three-and-a-half months of the Copyright Office's six-month accounting period that ends June 30.)

No one knows for sure how many signals were dropped in reaction to the rate hike. The only hard numbers were gathered by the National Cable Television Association last month. It surveyed 28 of the top 30 cable MSO's and found that 493 signals on 358 systems would be dropped prior to Black Tuesday. When the dust settles, NCTA estimated, 6.3 million cable homes or more than 17 million people will be deprived of distant signals.

NCTA's numbers may be on the high side. Some major MSO's contacted by BROADCASTING indicated that Black Tuesday would have little effect on them. United Cable's Susie Stokes said the company only dropped 11 signals from six systems as a result of the rate hike. On the advice of attorneys, she said, United had restrained itself from adding a lot of new distant signals to its systems until the CRT had adjusted the copyright fees to reflect the dropping of distant signal rules.

The cable operators were not dropping all the signals subject to the higher rate. Although Sammons Communications dropped signals on only four or five systems, said Vice President Bill Strange, it retained affected signals on several other systems because they were part of a franchise or retransmission commitments or were promised in the course of winning basic rate increases from local governments. Even Storer, which was trying to limit its copyright liability as much as it could, was stuck with the additional signals in a few communities. However, in one case, Storer's Holgate said, a signal was

so popular Storer decided to continue to carry it and incorporate the added expense in its next rate increase.

The cable operators were doing more than just dropping signals as Black Tuesday approached. Wherever they dropped a distant signal, they added one of the advertiser-supported cable networks, for which Black Tuesday was more like Fat Tuesday. Cable operators reported last week picking up the Nashville Network, Cable Health Network, CNN Headline News, The Weather Channel, CBN and ESPN to fill their newly vacated channels.

According to the CRT decision, the 3.75% rate does not apply to any signal that was permitted under the distant-signal rules or to "a signal of the same type substituted for such permitted signal." As a result, some cable operators spent part of last Monday juggling their distant signal lineups, substituting favorite additional signals for little-watched "permitted signals." United Cable was able to keep superstation WTBS(TV) Atlanta on three of its systems by substituting it for signals they carried under the distant-signal rules.

March 15 was also a dark day for the superstations, the most pervasive of the distant signals, and their satellite carriers. For the superstations, the loss of affiliates means a loss in audience and advertising revenue. For the carriers, the loss of affiliates means a loss in their per-subscriber, per-month revenues. According to Turner Broadcasting System Vice President Terry McGuirk, WTBS's losses "were far less than expected." The "accumulated damage" from the rate hike, he said, amounted to 33 systems and 320,000 subscribers. Roy Bliss of United Video, which distributes WGN-TV Chicago, reported total losses of about 100 systems serving approximately one million cable homes, 10% of its total subscriber base of 10 million. Mary Cotter of Eastern Microwave, which delivers WOR-TV New York via satellite and terrestrial microwave, said she had



NCTA's pointed reminder

Turner troubles. Hubbard Broadcasting has expanded the scope of its copyright infringement suit against Southern Satellite Systems to encompass Turner Broadcasting System. SSS is the satellite carrier of TBS's popular superstation WTBS(TV) Atlanta. The original complaint charges SSS imported syndicated programming on WTBS in markets where Hubbard stations had exclusive local rights. According to Hubbard general counsel, John McDonough, the modified complaint also alleges Turner and SSS have forfeited their exemption from copyright liability under the Copyright Act by substituting national commercials for local ones on WTBS before distributing it to cable systems. In a related development, Group W announced it had retained former Attorney General Griffin Bell to defend it against an antitrust lawsuit brought by TBS's Cable News Network. Bell, who left the Carter Administration in 1979, is a partner in the Atlanta law firm of King & Spalding.