

publicized fight by affiliates that stopped ABC's plan to introduce a fourth commercial minute in its *Batman* half hour in 1966, has been a consistent critic of network "encroachment" over the years. It was Westinghouse's petition that touched off last year's scheduled but temporarily aborted—now expected to be reinstated—FCC investigation of TV network practices.

In his letter outlining the new policy to Frederick S. Pierce, president of ABC Television, Mr. McGannon said that "for the past several months we have been very concerned over the proliferation of network commercial announcements, over-runs into local time periods and the creation of new commercial positions which have exceeded the traditional three minutes of commercial time per half hour of programing.

"This creates an inordinate concentration of revenue income in the networks at the expense of spot television generally, and most seriously impacting medium and smaller community stations."

In follow-up but generally similar letters to Gene F. Jankowski, president of the CBS/Broadcast Group, and Herbert S. Schlosser, president of NBC, Mr. McGannon also said the decision to admit no additional network commercials "is also now dictated by our responsibility under the Communications Act as a licensee. As a practical business matter, such a containment is called for by a sensitive awareness of the public's growing impatience with overpowering clutter in network schedules."

Mr. McGannon added that "in order that advertisers and agencies may be aware of our position in this matter, I'm sending copies of this correspondence to agencies for their guidance in planning."

Mr. McGannon also told the network executives that "if you wish, I would be pleased to meet and discuss this with you."

ABC, CBS and NBC spokespersons said they would have no comment on the letters pending an opportunity to study them. A CBS spokesman also said Mr. Jankowski had a luncheon date this week with Mr. McGannon which was made before the current issue arose but at which the subject undoubtedly would be discussed.

In addition to WJZ-TV the Westinghouse television stations are KPIX(TV) San Francisco and KDKA-TV Pittsburgh, affiliated with CBS-TV, and KYW-TV Philadelphia and WBZ-TV Boston, affiliated with NBC-TV.

Although Westinghouse sources said they had not sought other support for their move, they presumably will find at least endorsement among station reps generally and many stations. The Station Representatives Association prepared a study last summer—for its members' transmission to their stations—that called for, among other things, at least six months' notice from the networks when changes in network commercial patterns were contemplated (BROADCASTING, Sept. 5, 1977).

## WJLA-TV swap for KOCO-TV approved by FCC

**Vote is 5 to 2, Washburn and Brown dissenting on crossownership and minority-bargaining grounds; Ferris cites viability of 'Star'**

The WJLA-TV Washington-KOCO-TV Oklahoma City swap—which represents one of the biggest deals, in terms of the dollars involved, and which is certainly one of the most unusually structured ever presented to the FCC—made it past the commission last week.

The commission, on a 5-to-2 vote, approved the transfer, but only after some two and a half hours of discussion. The principal issues involved questions as to whether the transfer would be in compliance with the commission's multiple-ownership rules and whether Joe L. Allbritton, WJLA-TV's owner, honored an agreement he had made in 1975 with local citizen groups.

Commissioner Tyrone Brown remained unconvinced that Mr. Allbritton would not be in violation of the rule banning parties from owning more than seven stations of any class. And Commissioner Joseph Fogarty made clear his disbelief that Mr. Allbritton had kept his promise to make good faith efforts to negotiate with minority and women's groups interested in purchasing WJLA-TV.

Sale of WJLA-TV means that Mr. Allbritton has met the condition the commission attached to its approval in 1975 of his acquisition of Washington Star Communications Inc., which owned WMAL-AM-FM-TV (now WJLA-TV), WLVA-AM-TV Lynchburg, Va., and WCIV-TV Charleston, S.C., as well as the *Washington Star*. The condition was that Mr. Allbritton come into compliance with the crossownership rules by divesting himself of the media combinations in Washington and Lynchburg within three years. The Washington radio stations have been sold to ABC for \$16 million and WLVA(AM) to Shenandoah Broadcasting for \$660,000.

Under the terms of the agreement approved last week, WJLA-TV becomes the property of Combined Communications Inc., one of the nation's fastest-growing broadcasting companies, in return for \$55 million in nonvoting preferred stock, which would be redeemed over a period of 20 years, during which time it would pay dividends of \$7 a share. The total value has been estimated at up to \$100 million, which would make it the largest single-station sale in the history of broadcasting.

The structure of the sale is designed not only to afford tax benefits to both parties, but Mr. Allbritton has said, to assure a steady and substantial flow of revenue for the hard-pressed *Washington Star*.

And concern for the *Star* evidently figured prominently in the decision of at least some of the commissioners. Chair-

man Charles D. Ferris said he would vote for the transfer "in the expectation and hope that the cash flow will provide viability for the *Washington Star*." Other commissioners, notably Robert E. Lee, in a lengthy discourse, also talked of the need to assure the survival in the market of a newspaper in addition to the *Washington Post*.

However, although Mr. Allbritton's intentions to continue to operate the *Star* are stated in some of the pleadings filed in the case, the application contains no firm commitment. This troubled several commissioners, including Chairman Ferris and Abbott Washburn. But for Commissioner Brown, it meant there was "no public interest reason to grant the application."

For he does not believe that the use of preferred stock insulates Mr. Allbritton from the reach of the rules banning ownership of more than seven stations in a service. (Without such insulation, 10 television stations would be attributed to him—CCC's seven and WSCI's three.) The staff argued that since beneficial ownership of the preferred stock would not afford Mr. Allbritton legal influence in CCC's councils, he would not be in violation of the rule.

But Commissioner Brown said that never before had the commission approved "so large a crossinterest of two group owners." And he said he believes the seven-station rule seeks to promote "diversity of ownership," as well as control.

All commissioners are concerned about the possible abuse of the technique of using preferred stock that was pioneered in the WJLA-TV case. They will include consideration of the matter in a rulemaking dealing with voting trusts as insulation, which is now being drafted (BROADCASTING, Dec. 12, 1977). And Martin Levy, deputy chief of the Broadcast Bureau, noted the commission could adopt a retroactive ban on the use of such stock that would require Mr. Allbritton to dispose of his CCC holdings.

The question of whether Mr. Allbritton kept his promise to the citizen groups involves the agreement under which they withdrew their opposition to his acquisition of WSCI. The groups, plus the National Black Media Coalition, petitioned the commission to deny the WJLA-TV-KOCO-TV swap on a number of grounds, including Mr. Allbritton's alleged failure to keep his promises.

Commissioner Fogarty said he read the agreement as requiring Mr. Allbritton to notify minority and women's groups of the offer received from CCC, and give them an opportunity to meet it. He said this was not done. And, he noted, the agreement in principle between WSCI and CCC was reached on March 29, seven days after an Allbritton aide told a group of blacks interested in WJLA-TV that no "detailed negotiations" regarding its sale were under way. "I don't think there are sufficient facts to determine if Mr. Allbritton is in compliance with the agreement," Com-