

venting subscribers from receiving local stations via satellite: "These statutory restrictions ... frustrate the ability of the satellite industry to compete effectively against the cable industry."

The Wireless Communications Association International called for stricter program-access rules. The group urged the commission to ask Congress to expand the rules to cover all cable networks and programming delivered via fiber as well as via satellite.

"It is now abundantly clear that cable operators are reconfiguring their facilities to take advantage of the fact that the program-access statute, as currently written, does not explicitly cover programming that is delivered via fiber," the group said.

Ameritech New Media also said that it still has trouble obtaining programming and argued that competition from sources such as DBS is not holding down cable rates. "Disturbing trends in the [multichannel video programming distributor] marketplace ... have grown progressively more serious," the company said. ■

Appeal to follow court's gambling ad ban

Broadcasters in New Orleans say they will seek Supreme Court review of a lower court decision upholding a national ban on casino-gambling ads on TV and radio.

The U.S. Court of Appeals for the Fifth Circuit in New Orleans upheld the ban once before, but the case was sent back by the Supreme Court, which said it was technically incorrect. In its July 30 affirmation of its earlier decision, the Fifth Circuit took a pointed poke at the nation's highest court, asking, "Has the Supreme Court gone over the edge in constitutionalizing speech protection for socially harmful activities?"

There is "a commonsense [sic] connection between promotional advertising and the stimulation of consumer demand for the products advertised," the court's ruling says. The federal government "may pursue a cautious policy toward the promotion of commercial gambling [with] one means at its disposal—a restriction on broadcast advertising." Other media are available for advertising and casinos can advertise as long as they don't refer to gambling, the ruling adds.

Gambling is "legal and sanctioned by the state of Louisiana—and in fact encouraged by the state of Louisiana. Why shouldn't we be allowed to speak about it?" said Don Cooper of the Greater New Orleans Broadcasters Association, which originated the case. "We most certainly will" appeal.

"We're disappointed with the Fifth Circuit's decision," said Dennis Wharton, spokesman for the National Association of Broadcasters. "Broadcasters should have the right to air advertising for legal products depending on what a local station believes is appropriate for the community." —Elizabeth A. Rathbun

PUSH seeks FCC hearing on Glencairn

By Dan Trigoboff

The Rainbow/PUSH Coalition has stepped up its campaign to examine whether group owner Glencairn Ltd.—despite purported minority ownership—is actually controlled by Sinclair Broadcasting. The coalition has asked the FCC to reject an LMA in which Glencairn would run Sullivan Broadcasting's KOKH-TV Oklahoma City.

Sinclair, PUSH says, already owns KOCB-TV Oklahoma City and appears to be attempting to use Glencairn to avoid FCC duopoly rules that bar ownership of two TVs in the same market. "The relationship between Sinclair and Glencairn does not appear to be arm's length," PUSH says in an FCC filing. "[F]or example, Sinclair seems to be purchasing KOKH-TV and then giving it to Glencairn for zero consideration. If Sinclair is permitted to use Glencairn to evade the television duopoly and cross-interest policies, no large broadcaster will have an incentive to deal with small and minority broadcasters as equal partners."

Neither Sinclair nor Glencairn would comment on the filing, but Sinclair

Government Relations Director Mark Hyman has called the charge that Sinclair is controlling Glencairn "baseless."

The Chicago-based PUSH, which is led by civil rights leader the Rev. Jesse Jackson, is asking the FCC for an evidentiary hearing to determine whether Glencairn has any assets beyond FCC licenses: any employees—including attorneys—unaffiliated with Sinclair; financial control of its own assets, and a business plan.

PUSH also contends that Sinclair has appeared to hold itself out as controlling Glencairn stations. "Based on the evidence expected to be adduced at the hearing," PUSH says, it asks the FCC to deny the LMA application.

If Glencairn President Eddie Edwards "is a real broadcaster," PUSH says, "he will ultimately welcome this scrutiny, which can only result in him achieving greater independence from Sinclair and enhance his opportunity to grow his company—if it is his company."



Jesse Jackson's PUSH says Sinclair and Glencairn are too close.

Rainbow/PUSH attorney David Honig raised the "alter ego" issue in a July 1 FCC filing that questioned an LMA between Sinclair's KABB-TV San Antonio and Glencairn's KRRT-TV Ker-ville, Tex.

Baltimore-based Sinclair and Glencairn have 13 LMA deals. Edwards, who is black, owns all the company's voting stock; however, TV station groups like

Post-Newsweek, First Media and Pulitzer and public interest group the Media Access Project complain that the LMAs give Sinclair an unfair advantage, citing the ownership of Glencairn's equity. Edwards owns only 3% of the company, according to Securities and Exchange Commission filings. Ninety percent of Glencairn equity is held in nonvoting stock in trusts owned by Carolyn Smith, mother of Sinclair President David Smith. She also owns another 7% of equity. ■