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mise that Mr. Whitehead negotiated:

A key provision, one lifted from the compromise agreement—and one that triggered Commissioner Johnson's contention that the rules would deny cable service to the major markets—provides for exclusivity for nonnetwork programing. (The same-day exclusivity protection that had been afforded network programing is reduced to simultaneous duplication.)

The new rules will prohibit cable systems in the top-50 markets from carrying any syndicated programing for one year after its first appearance in any market and then for the life of the contract under which it is sold to a local station. In markets 51-100, different kinds of nonnetwork material would be protected for varying periods of time up to two years. Chairman Burch rejected the suggestion that exclusivity was a new idea thrust upon the commission. "No one had the vaguest idea that the Aug. 5 letter indicated that cable could go into the big markets without exclusivity," he said. "The question is whether we do it or whether it's done in copyright legislation."

But while the exclusivity provisions may tend to hamper CATV's growth in the major markets, the distant-signal rules are designed to permit cable operators at least to operate there. They will permit CATV systems in the top-50 markets to carry signals of at least three network and three independent stations; those in markets 51-100, the signals of at least three network and two independent stations. All of the systems in those markets, in addition, will be entitled to carry two distant signals, regardless of whether they are needed to provide the specified minimums.

The commission said it was permitting the importation of two distant signals not available in the community to enable CATV to attract large amounts of investment capital for the construction of new systems and to open the way for the "full development of cable's potential."

Systems in markets below the top 100 will be limited to the carriage of three network signals and one independent. And those outside any definable market will not be limited in the number of signals they can carry. In response to expressions of concern of Rocky Mountain broadcasters, who feel rural-area stations are not being given adequate protection, new systems will be required to carry those smaller stations so long as they can demonstrate a significant audience in the cable system's area, regardless of whether they put a grade-B signal into it.

In addition, cable systems will be required to carry all local educational stations and will be authorized to carry as many foreign-language stations as they wish, except in markets where there is a foreign-language outlet.

Leapfrogging rules lifted largely from the compromise agreement will require systems importing distant independent signals from the top-25 markets to choose from one or both of the two closest such markets. Systems carrying a third independent signal will be required to pick up a UHF station within 200 miles or, if such a station is not available, a VHF from the area. Where network affiliates are concerned, a system must afford priority of carriage to the closest one or, at the system's option, to the closest one within the state.

The new carriage rules will not apply to signals a system was authorized to carry prior to March 31, 1972. However, grandfathered systems may add signals permitted under the new rules, and signals authorized or grandfathered to one system in a community may be carried by other systems there.

The report and order and the rules make it clear the commission is proceeding cautiously in the area of nonbroadcast services, even though it says, "We envision a future for cable in which the principal services, channel uses, and potential sources of income will be from other than over-the-air signals."

The commission does not want to impose "unreasonable economic burdens on cable operators," so it sets minimal channel standards only for systems in the top-100 markets—a minimum capacity of 20 channels. The rules require affected systems to divide their capacity evenly between broadcast and nonbroadcast service, and to:

- Make available a public-access channel at no cost on a first-come, first-served basis. "We believe there is increasing need for channels for community self-expression," the commission says. Cable operators will be required to maintain production facilities for those using the access channel, but will not be permitted to censor any of the material presented. The rules prohibit advertising (including political spots) on the access channel, as well as lotteries or obscene or indecent matter.

- Reserve a channel for educational use and another for local government. These channels would be available at no cost for at least a "developmental period" of five years.

The remaining nonbroadcast channels will be available for leased use. Operators will also be permitted to lease channels blacked out to comply with the exclusivity rules, but they will also be required to expand channel capacity as demand for it increases.

Systems will be required to incorporate a capacity for return communications on "at least a non-voice basis." The commission said it was "premature" to require two-way capacity for each subscriber.

The commission also sets up technical standards for CATV systems and creates a "structured dualism," under which it and state and local governments will share in the regulation of cable systems. The commission says that licensing cable systems would be an "unmanageable burden," that it lays down the standards local jurisdictions are to follow in issuing franchises. Among other things, it says franchise fees should be between 3% and 5% of gross subscriber revenues; the commission expresses concern over the practice of some communities setting fees as high as 36% as revenue-raising measures which are an "indirect and regressive tax on cable subscribers." The commission also suggests a 15-year limit on franchises.

The commission, in addition, established advisory committees on federal-state relations and on technical matters. Chairman Burch will head both committees with Sol Schildhause, chief of the Cable Television Bureau, serving as vice chairman.

The rules do not include one provision that was in the compromise agreement, and another that was promised in the letter of intent. The first was intended to afford radio stations some protection against the importation of distant radio signals.

The other looked to the adoption of a sports-blackout rule for CATV along the lines of those in effect for professional sports. Each was the subject of a notice of proposed rulemaking issued last week.

The commission, in the radio rulemaking, raised a number of questions going beyond the proposal in the compromise agreement, which would have required a CATV system to carry all local AM or FM stations respectively when they import distant AM or FM signals.

Pending completion of the rulemaking, the commission is banning the importation of distant radio signals (from a community more than 75 miles from the cable community into communities that are served by local stations and that have populations of less than 50,000, unless all local radio stations of the same type (AM or FM) are also carried.

Chairman Burch said the proposed sports-blackout rule caused the commission considerable difficulty. There was some feeling the issue should b