

on the agenda Thursday, the commission decided to postpone action on it, knowing it was in effect killing the sale.

Pulitzer's problems resulted from a Justice Department antitrust suit aimed at breaking up Pulitzer's ownership of both a television station and a newspaper—the *Star*—in Tucson.

Originally, Pulitzer was to have sold the station by April 1, but Justice agreed to a two-month extension. At the same time, Pulitzer asked the court to give it another eight months—to Feb. 1, 1973—to find a buyer, if necessary.

The Justice Department had agreed to the eight-month extension, but it said that if that deadline were not met, Pulitzer should be required to sell the newspaper.

Judge Walsh granted not only that request, but also a Pulitzer proposal for dealing with situation if the company is still without a buyer for KVOA-TV on Feb. 1. The station will be operated under a trusteeship, with profits going to charity.

Judge Walsh, in a decision preceding his order in the case, said Pulitzer has made a sincere effort to sell the station, "but has been prevented from doing so without fault on its part." He also said that Pulitzer "has shown a sincere purpose to give Tucson a strong independent newspaper."

"The court is convinced," he added, "that the order proposed by Pulitzer will assure complete divestiture of KVOA-TV at an early date and assure, until that time, competition between *Star* and KVOA-TV."

## Beginning of the end for XETV-ABC association

**FCC says Mexican station's affiliation with U.S. network is no longer in public interest, nudges ABC toward alignment with San Diego UHF instead**

The FCC has broken up ABC's 16-year relationship with a Mexican VHF—XETV(TV) Tijuana—and, in effect, directed the network to affiliate with a San Diego UHF—KCST-TV.

The commission effected its unmaking and making of relationships last week in an order denying ABC's request for renewal of authority to deliver network television programs to XETV, the ABC affiliate in the San Diego market.

The order, prepared under the supervision of Commissioner Robert T. Bartley, concluded that renewal of ABC's authority to transmit programs to XETV for broadcast back across the border into the San Diego area was "no longer in the public interest."

And the commission makes it clear it expects the practicalities of the network-

ing business to force ABC to affiliate with KCST-TV, the only operating UHF in a market that has three commercial outlets. (KFMB-TV is affiliated with CBS and KOGO-TV with NBC.) The commission saw little likelihood in ABC wooing either VHF from its present affiliation, and little sense in ABC's securing a secondary affiliation with either.

The commission thus overrode an initial decision of Hearing Examiner James F. Tierney, who said in May 1971 that denial of ABC's application would have an adverse impact on ABC's national television service and that renewal was required to preserve ABC's national competitive position (BROADCASTING, May 24, 1971). The examiner, the commission said, had "erred in according overriding weight" to those factors. The commission decision was adopted by a vote of 4-to-0; Commissioners Nicholas Johnson, H. Rex Lee and Charlotte Reid did not participate. There was no immediate comment from ABC or XETV as to whether either plans an appeal. However, William Potts, counsel for XETV, said he is "leaning to an appeal." He said the commission has not dealt adequately with the legal and factual issues in the case.

ABC's application for renewal of authority to service XETV with programming—authority which had been granted routinely every year since 1958—was designated for hearing by the commission in 1968, on the petition of Western Telecasters Inc., licensee of KCST-TV, which sought denial of the application.

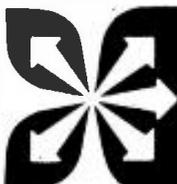
Western had put KCST-TV on the air in 1968, and wanted the ABC affiliation. Western said its station, as an unaffiliated UHF, could not compete with three network-affiliated VHF's—XETV, as well as KFMB-TV and KOGO-TV. Western also claimed that XETV's local programming was blatantly defective and that conditions under which ABC was originally granted authority to transmit programming to XETV—it was the only available primary affiliate in the market—no longer existed.

It was the last point that the commission considered crucial. "We conclude that the principal public interest factor upon which we based our 1956 decision—absence of a third television facility for the carriage of ABC network programming—is not and has not been present since 1968," the commission said, adding:

"Moreover, KCST-TV is ready, willing and desirous of becoming ABC's San Diego affiliate . . . We find that there now is a local 'third television station in the San Diego area' by which the public can view ABC programming."

The commission also noted that the original grant was made with the understanding that the authorization would be terminated "when for other reasons which may at some future time obtain" continuation of that authorization was no longer in the public interest. The commission said it found such "other reasons" in its "policy of fostering UHF development."

Examiner Tierney had held that the revenue loss that ABC would suffer as a result of a denial of its authority to affiliate with XETV could "have an esca-

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