

Cablecasting

HBO claims prohibition on Yankee games usurps its freedom of speech

Home Box Office Inc., New York, wrote the FCC last week that it thinks the First Amendment prohibits FCC interference in HBO's carriage of occasional New York Yankee baseball games on its pay-cable line-up.

"We believe that the First Amendment of the Constitution prevents the commission from seeking to prevent pay-cable carriage of sports events specifically in [this] situation."

HBO said further that the system's carriage of the Yankee games is "consistent with the spirit and intent of the commission's pay-cable policies and is in the public interest."

Responding to an invitation by the commission to comment on proposed revisions to the present antisiphoning rule (BROADCASTING, Aug. 12), HBO President Gerald M. Levin said HBO has carried 15 otherwise nontelevised Yankee games to the 22,000 subscribers it serves through more than 30 New York, New Jersey and Pennsylvania cable-TV systems. Four additional games are scheduled for August and September, Mr. Levin wrote. He pointed out that WPXI-TV New York, which telecasts the Yankee contests, used to carry as many as 125 games in the early 1960's but will present only 69 this season.

On the basis of those numbers, Mr. Levin said HBO does not believe the WPXI coverage can be considered "substantial." He noted that present rules specify that if a "substantial" number of games in a category are regularly telecast on conventional TV the preceding two years, they may not be carried on pay TV.

Mr. Levin said that "without pay cablecasting subscribers would be deprived of games they had viewed in the past."

HBO also cited the First Amendment in a July 25 petition to the commission to waive cablecasting restrictions so it could carry the feature film, "Butch Cassidy and the Sundance Kid." The prohibition on pay cablecasting of films over two but less than 10 years old would prevent HBO from carrying "Butch Cassidy" from Aug. 3, 1974, to Aug. 21, 1979.

In its petition HBO said "a failure to grant the requested waiver would constitute an unlawful prior restraint on freedom of speech contrary to the First Amendment. . . ." And later, "Indeed, by the rule in question the commission lays a much heavier hand of censorship upon cable television than it does by fairness, 'equal time' and other rules and policies applicable to regular broadcast stations."

The restrictions on pay-cable access to feature films are based on "purely speculative fears," and not on "clear and present" danger of serious abuses by pay cable, HBO said.

The commission is not justified in

regulating pay-cable programming, HBO indicated, because pay cable is not a scarce communications source, unlike regular TV, and because the commission does not select pay-cable operators or channel lessees.

HBO wrote that the rules conflict with established antitrust principles by "excluding competitors of the broadcast industry from some markets . . . by preserving the oligopolistic position of the three major networks and by depriving the public of the ability to choose between alternative programming outlets."

HBO concluded its appeal to the commission by saying the grant of a waiver

in its case would only be a "temporary expedient." What is needed is a long-term decision to eliminate the commission's restrictions on pay-cable access to feature films.

FCC asked to keep locals out of cable technical standards

Cable groups have cited possible problems with interconnection, compatibility, and equipment design and manufacture

WSVA-TV is represented by HR Television, Inc.

How secure is their privacy?

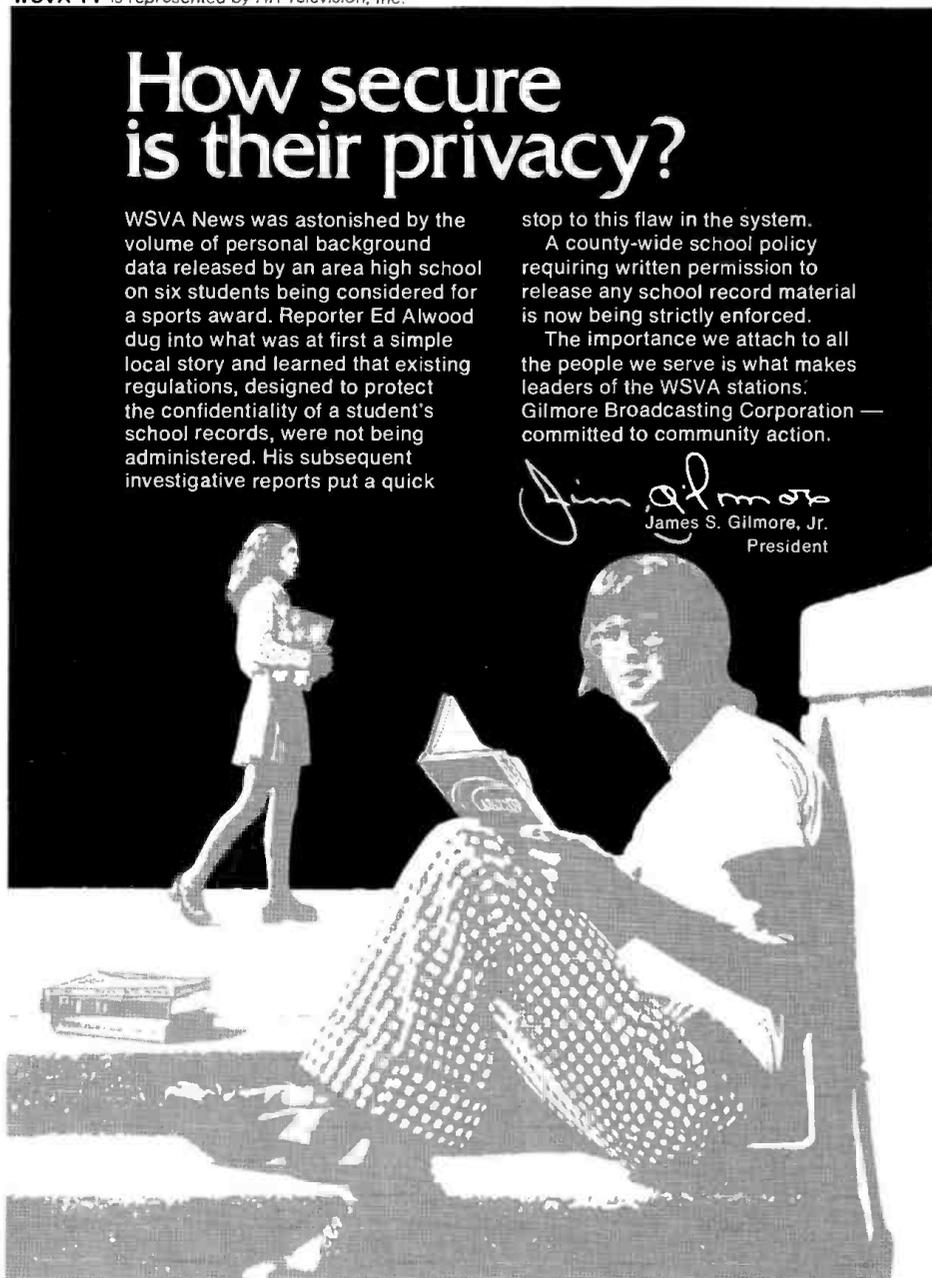
WSVA News was astonished by the volume of personal background data released by an area high school on six students being considered for a sports award. Reporter Ed Alwood dug into what was at first a simple local story and learned that existing regulations, designed to protect the confidentiality of a student's school records, were not being administered. His subsequent investigative reports put a quick

stop to this flaw in the system.

A county-wide school policy requiring written permission to release any school record material is now being strictly enforced.

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