

bills now pending, it would provide for appeals in licensing cases to be taken to the nearest court of appeals rather than to the appeals court in Washington, as now required by the Communications Act.

The bill, which would be added to the score now pending in both houses of Congress, was being circulated among members of the Senate last week in an effort to obtain co-sponsors, and will be introduced shortly after Congress returns today (Monday) from its spring recess.

The Hatfields and McCoys of pay blast away in new filings

FCC's ideas on easing rules on paycasting of series draw miles-apart reactions from cable and programmers on one side and broadcasters on the other

The FCC's proposal to relax its regulations on paycasting of series-type programming has brought charges from cable and Hollywood groups that only the total elimination of all such restrictions would do, while broadcasters held firm to their often stated belief that the relaxations would only increase the danger of program siphoning.

The present rules permit the showing of series on pay television or pay cable if the series has not been shown previously on conventional television. Four FCC proposals now under consideration would relax that requirement to this extent: Series which have never been purchased for broadcasting over conventional TV would be made available; series under contract to a station in any given market must also be available to paycasting in the same market; series that have not been exhibited in a given market over conventional TV for three years would be available for pay use, and if a series has 50 or fewer episodes it would be available to pay systems.

Last week, comments on those proposals arrived at the commission.

The National Cable Television Association urged the commission to rescind all restrictions on pay cable, saying siphoning charges are unrealistic since it would be "economic suicide" for program suppliers to eliminate the networks and independents as their major customers. "Pure dollar power" would prohibit any successful series from being shifted from the networks to pay cable, added NCTA.

Absent total repeal, NCTA recommended several changes in the FCC proposals. It would allow pay use of series which have never been purchased instead of those which have never been shown by conventional TV. NCTA would also change the three-year wait period before pay use of a series to 12 months and only

if 26 episodes or 50% of the existing episodes (which ever is less) have been exhibited by conventional TV. And NCTA would change the 50-episode cutoff to 100.

Warner Cable Corp. echoed NCTA's suggestion that the restrictions be abandoned all together. The rules as they are or as they are proposed, said Warner, represent "administrative overkill that is arbitrary and capricious and without evidentiary support."

The Motion Picture Association of America joined the cable operators in their call for complete elimination of all pay cable programming restrictions. With about 130,000 pay cable subscribers out of 66 million TV homes, said MPAA, anti-siphoning regulations are "akin to protecting an elephant's feeding rights against interference from a mouse."

Columbia Pictures Industries Inc., MCA Inc., Paramount Picture Corp., 20th Century-Fox Film Corp., and Warner Brothers Inc. in a joint petition claimed since only one in three series make it from story idea to pilot and only one or two out of 10 pilots becomes a successful series, the "casualties" are clearly not in danger of being siphoned. Those series that are successful, said the five Hollywood groups, will not be transferred to pay cable use since economic dictates favor the networks. They also pointed out that the current practice for network contracts provides an option to extend a network's rights to a series to five seasons, thus effectively barring paycasting in the interim.

Home Box Office Inc., a pay cable program supplier, noted that about 20% of its offerings were neither movies or sports and hoped the commission would eliminate any restrictions so that it could continue to provide these different forms of programming.

But if cable and film producers saw no truth to antisiphoning arguments, NBC said there was "ample material" to support the need for such restrictions. NBC estimated that only 1,250,000 pay homes at a rate of 18¢ per home would be required for pay systems to bear the approximate \$200,000 cost of an hour of prime-time programming.

ABC opposed the FCC proposals and

Marino moves. Joseph A. Marino, who as an associate general counsel has headed the FCC general counsel's litigation division, will be named deputy chief of the Common Carrier Bureau. The commission last week approved his appointment as successor to Kelley E. Griffith, who is now on sick leave and will retire later this summer. Mr. Manno, whose appointment is also subject to Civil Service Commission approval, which is considered routine, assumes his new duties on an acting basis today (June 2). Daniel M. Armstrong III, a member of the litigation division staff, is being considered as Mr. Marino's replacement as litigation division chief.

also suggested a few of its own: Retain a paycasting ban on all off-network programming as well as prohibit paycasting of nonnetwork series programming that had been broadcast on a regular basis on conventional TV during the last five years. ABC would allow for the paycasting however, of any "original innovative" programming, unless there is evidence of "talent siphoning."

Twenty individual television licensees in a joint comment and the National Association of Broadcasters endorsed ABC's plan.

CBS, also opposed to the rulemaking, said the definition of series type programming should be broadened to include series spinoffs. Programs with essentially the same casts or characters or derived from an existing episode should not be open to pay use, CBS said.

Media Briefs

Time to compete. FCC has extended from April 1 to Aug. 1 deadline for filing applications for nine channels Alabama Educational Television Commission had previously been authorized to operate. Extension was requested by Alabama Citizens for Responsive Public Television which claimed AETC would be only applicant if more time was not given. Although stripping AETC of its licenses last winter (BROADCASTING, Jan. 13) on discrimination charges, FCC said AETC could reaply because of "positive steps" taken after 1967-1970 license period. FCC also gave AETC interim operating authority. AETC opposed extension, maintaining that further delay in resolving issue would hinder public interest and AETC's long-range planning and fund-raising ability.

New to BIAS. Data Communications Corp., Memphis, has signed 13 additional radio and TV stations to its 125-client broadcast computer firm, BIAS (Broadcast Industry Automation System). Three Corinthian Television stations, KXTV(TV) Sacramento, Calif., KOTV(TV) Tulsa, Okla., and WANE-TV Ft. Wayne, Ind., join that group's other two stations that already are BIAS subscribers. Other newcomers: WSPD(AM) Toledo, Ohio; WGBS(AM) Miami, and WJW(AM) Cleveland, all Storer stations; WCSC-AM-TV Charleston, S.C.; WXT(FM) Charleston; WLW(AM) Cincinnati; KMTV(TV) Omaha and WICS(TV) Springfield, Ill.

Grant in Richmond. FCC granted Continental Communications Inc.'s renewal of WRGM(AM) Richmond, Va., for term ending Oct. 1, 1975, on condition that station provide list of community organizations it will maintain links with to fill job vacancies. Citizens group led by Reverend Dwight Jones charged employment discrimination against 17 Richmond stations (including WRGM), but FCC acted on WRGM case first to pave way for license assignment from Continental to Dales Broadcasting (David Pollard, Lester and Luella Zins and others) now pending (BROADCASTING, Jan. 27).