

In Brief

U.S. Court of Appeals in Washington has overturned FCC's pay cable rules. Court, in 105-page decision issued Friday, held that commission exceeded its authority over cable television in promulgating rules, and failed to present evidence to support need for regulation. Court also said rules, as written, violate First Amendment. In response to argument by former FCC General Counsel Henry Geller, court criticized commission for engaging in "ex parte" contacts while rulemaking was pending, and **directed commission to hold hearing "to determine the nature and source" of all ex parte contacts made during rulemaking.** It also said that commission officials in future rulemakings **"should shun ex parte contacts"** on issue involved, or reduce contacts to writing and submit them for record if they occur. Although it overturned pay cable rules, **court affirmed similar rules governing over-air pay television.** Court noted it had upheld commission's authority to adopt subscription television rules six years ago, and said little had occurred in pay television since then. Accordingly, it said six-year-old decision requires affirmance.

Former Senate Communications Subcommittee Chairman **John O. Pastore** (D-R.I. retired) is recipient of second **Grover C. Cobb memorial award** for broadcasting and government relations, sponsored by National Association of Broadcasters-affiliated Television and Radio Political Education Committee. Runner-up in voting by seven-man committee appointed by TARPEC Chairman Richard Dudley (Forward Communications, Wausau, Wis.) was said to be **FCC Chairman Richard Wiley.** Award, to be presented at Monday luncheon at NAB convention in Washington this week, will be accompanied by \$1,000 cash award for Mr. Pastore to give to college student of broadcast journalism or political science.

Annual National Association of Broadcasters convention is always time for **jockeying by NAB board members for leadership positions.** On radio board, where competition is expected to be fiercest, here is way races are reportedly running: Len Hensel of WSM(AM) Nashville and William O'Shaughnessy of WVOX-AM-FM New Rochelle, N.Y., are squared off for radio chairmanship. Jerry Lee of WDVR(FM) Philadelphia is surprise candidate (because he is newly elected to board, although he was on board several years ago) for radio vice chairman, along with David Scribner of Doubleday Broadcasting, Dallas; Bill Sims of WYCOM Corp., Laramie, Wyo., and Paul Reid of WBHB(AM) Fitzgerald, Ga. It's reported Herbert Hobler of Nassau Broadcasting, Princeton, N.J.; Robert McKune of KTTR(AM)-KZNN(FM) Rolla, Mo., and Virginia Pate Wetter of WASA(AM)-WHDG(FM) Havre de Grace, Md., have dropped out of vice chairman race. Voting will take place at June 27-30 NAB board meeting in Williamsburg, Va.

Head of Hearst Broadcasting, Franklin Snyder, said **Hearst-owned WBAL-TV Baltimore** has decided not to make formal presentation for ABC affiliation (BROADCASTING, March 21). Instead, it **will continue its relationship with NBC.** Mr. Snyder said prime consideration was strength of WBAL-TV's local early-evening newscast, which is 10 share points ahead of its competitors in latest Arbitron sweeps. Dominance would be jeopardized by weak Barbara Walters-Harry Reasoner ABC network newscast if WBAL-TV were to switch, Mr. Snyder said. Hearst's decision keeps Westinghouse-owned WJZ-TV Baltimore in ABC's fold.

Committee of National Association of Broadcasters TV code review board had meeting with top managers of nearly all major brewers Tuesday in New York. Largely because of complaint from National Institute of Alcohol Abuse and Alcoholism that TV advertising of beer and wine contributes to teenage drinking and alcoholism, **committee is studying need for tighter alcohol advertising restrictions in code.** So far it doesn't see any need, also sees no evidence of causal link between beer ads and alcoholism. **Brewers took hard line** against code restrictions on First Amendment grounds.

Chronicle Publishing Co. has won tax court decision in case involving Chronicle's cable television systems that, lawyers involved say, **could result in substantial tax savings for cable operators generally**—particularly those who pay large amounts for operating enterprises. Judge C. Moxley Featherston, sitting in San Francisco, ruled that **Chronicle's 17 franchises** (in and around San Francisco Bay area) **can be depreciated** over their term for tax purposes. Internal Revenue Service had argued that, like broadcast licenses and network affiliations, cable television franchises will almost automatically be renewed on same terms and conditions and, therefore, cannot be depreciated. But Judge Featherston accepted Chronicle's argument that cable industry is in such rapid state of evolutionary change, in terms of technology and regulation, that not only can renewal not be certain but that, if granted, it would probably be on new terms and conditions. As result, franchise would be new asset.

President Carter last week nominated **Michael Pertschuk as chairman of Federal Trade Commission** ("Closed Circuit", Feb. 14). Name was sent to Senate Commerce Committee, which Mr. Pertschuk serves as chief counsel and staff director. Hearing on his nomination is scheduled Wednesday (March 30).

House Commerce Committee budget request of \$4.1 million **was cut back** to last year's level of \$3.2 million last week by Accounts Subcommittee of House Administration Committee. On face, move means Communications Subcommittee can't have half million dollars it asked (BROADCASTING, Feb. 14), but would have to go back to \$226,000 budget of last year, all but \$10,000 of which is already committed to staff salaries. Subcommittee Chairman Lionel Van Deerlin (D-Calif.) is undismayed, however, and says Communications Act rewrite project won't be affected.

House Communications Subcommittee will decide in mid-April whether to approve draft report saying although there has been progress, **public broadcasting "has not done all it can" to insure fair employment treatment of minorities.** Until public broadcasting creates mechanism for hearing complaints and enforcing EEO program, subcommittee won't consider increased funding, draft says.

United Church of Christ's Office of Communication announced that, with its help, local citizen coalitions have reached **"major agreements" with WJBK-TV Detroit and WSMW-TV Worcester, Mass.,** looking to more local programs and greater job opportunities for minorities and women. WJBK-TV was said to have settled local license challenge by accepting 14-point agreement including commitment to annual public affairs specials devoted to concerns of minorities and women, 60 locally oriented public service announcements per week, production of more programs for consumers and children, hiring of more minorities and women in higher job categories. In Worcester, agreement with WSMW-TV's current licensee, State Mutual Life Assurance Co., and its prospective buyer, SIBOS Corp., reportedly calls for creation of minority advisory board, production of prime-time weekly public affairs program and doubling of news broadcast weekly in Spanish.

KWKH(AM) and KROK(FM) Shreveport, La., have been sold by subsidiary of Shreveport Times Publishing Co. to Wichita Great Empire Broadcasting for \$2.3 million. Transfer is spin-off resulting from intended acquisition of Shreveport *Times* and *Monroe* (La.) *World and News-Star* by Gannett newspapers (BROADCASTING, Oct. 11, 1976). Times Publishing also owns 42% of KTHV(TV) Little Rock, Ark. Wichita is owned by F.F. Lynch and Michael Oatman, who recently bought KLNQ(AM) Omaha (BROADCASTING, Jan.31). Broker: Richard A. Shaheen.

Reavis G. Winckler, 59, VP-director of promotion, publicity and advertising for Metromedia Television and Metromedia Producers Corp., Burbank, Calif., died of cancer March 24 at St. Joseph hospital there.