

Top of the Week

FCC wants another look at WJLA swap

Commission hauls back its previous approval of Allbritton deal with Combined Communications after he announces sale of 'Star'; matter should come to a head this week

The FCC has put another hitch in Joe L. Allbritton's plans for trading WJLA-TV Washington to Combined Communications Corp. The commission voted 6 to 0 last week to reconsider its action of last month approving the transfer, and plans to decide this Friday (Feb. 24) what new action it will take.

At issue is Mr. Allbritton's sale of the *Washington Star* to Time Inc. for \$20 million, which was approved in principle last week by the boards of Time Inc. and Mr. Allbritton's Washington Star Communications Inc. It was the financial health of the *Star* that was uppermost in the minds of some commissioners when the commission decided on a 5-to-2 vote to approve the application under which WSCI would receive CCC's KOCO-TV Oklahoma City and \$55 million in preferred stock, a deal estimated to be worth upwards of \$100 million for Mr. Allbritton.

The commission acted on its own motion at the urging of Commissioner James H. Quello, a member of the majority, who said the facts on which the commission's decision was based had changed. "I believe we should review these changed circumstances and assess their significance in order to determine whether or not the public interest and the commission's processes might better be served by a modification or reversal of our earlier decision," he said in a memorandum to his colleagues. (In private conversations, Commissioner Quello has expressed his feelings about the Allbritton matter in this fashion: "My faith in the free enterprise system has been trifled with.")

The commission on Friday dispatched a letter to WSCI, seeking facts surrounding Mr. Allbritton's decision to sell the *Star*. The commission's only information—other than that provided by the press—was a brief letter from Mr. Allbritton on the day the *Star* sale was announced, on Feb. 3, stating that the sale would further

assure the newspaper's viability.

One question Commissioner Quello wants answered is the extent to which the commission should be concerned with a "time frame" in which the newspaper's sale was announced "shortly after" the commission's Jan. 12 action. Although Mr. Allbritton is reported to have initiated talks with Time Inc. a year ago, he said "serious negotiations" were begun only about a week before the agreement was announced (BROADCASTING, Feb. 6). The commission has asked for the answers in affidavit form by Tuesday (Feb. 21).

The reason for the short deadlines is that Feb. 24 is the date by which the WJLA-TV sale contract contemplates a final, non-reviewable order; without one, either party could walk away from the agreement. The contract terminates on Feb. 28 if the agreement is not consummated by then.

But even a commission decision to affirm its earlier decision would not necessarily pave the way for consummation of the agreement. Four citizen groups that had petitioned the commission to deny the assignment applications have appealed the

original action, and Edward J. Kuhlmann, of Citizens Communications Center, their attorney, said the appeal would simply be amended to include a recitation of events since it was originally filed. Thus another commission vote to approve would not produce a "nonreviewable" order. (The commission did not act on the groups' petition for stay of the approval order; the commission said that was not necessary at present, but that it would consider the petition if it affirms the approval order.)

It was not clear last Friday what the parties will do in the face of the appeal, even if the commission action this week permits them to go ahead with the transaction. It is understood that there had been no discussions between the parties as to whether they would extend the contract, close at their peril or abandon the project.

Lawrence R. Wilson, chief counsel for CCC, said the principals there had not yet addressed the question of proceeding, and would not until they had all the facts, including Mr. Allbritton's reaction. However, he appeared definite on one point—a commission order setting the transaction

Fairness in for another going-over

The FCC has initiated an inquiry that could lead to major changes in its administration of the fairness doctrine. A notice, which is in response to a court order, asks comments on two proposals: one to provide for a voluntary system of public access and one designed to assure licensee compliance with the fairness doctrine obligation to cover controversial issues of public importance—the so-called 10-issue proposal.

The commission rejected both in 1974 when it adopted its "Fairness Report" following the first review of the doctrine since it was adopted in 1949. But the U.S. Court of Appeals in Washington, while rejecting most arguments made in appeals that were filed challenging the action, said the commission had not given a hard enough look at the public-access and 10-issue proposals (BROADCASTING, Nov. 14, 1977).

The access proposal was advanced by the Committee for Open Media, and the 10-issue idea by Henry Geller, the former FCC general counsel who is due to be named assistant secretary of commerce in charge of the new National Telecommunications and Information Administration.

COM suggested that broadcasters who adopt a voluntary system of access—under which one hour each week would be set aside for spot announcements and longer programs by the public—be presumed to be in compliance with the fairness doctrine and thus free of further commission scrutiny. Thus, COM maintains, its proposal would effectively remove government from fairness doctrine regulation.

Under the 10-issue proposal, broadcasters would be required to compile annually a list of 10 controversial issues of public importance that they chose to cover in the preceding year, list offers of response made and note the representative programing presented on each issue. The lists would be filed with the commission at renewal time.

The inquiry was issued on a 6-to-0 vote—Commissioner Robert E. Lee was absent—but it was evident the unanimity was a result largely of the realization that the court order afforded the commission little discretion on the matter.

While Chairman Charles D. Ferris and Commissioner Joseph Fogarty said they would welcome comments on the proposals—Commissioner Fogarty called the 10-issue proposal "reasonable"—some other commissioners seemed less enthusiastic. Commissioner James H. Quello made it clear he would have some critical comments to make if the proposals were eventually translated into rulemaking proposals. And Commissioner Abbott Washburn said the 10-issue proposal was "bad"