Tri-Star gets go-ahead from Justice

Nothing anticompetitive is seen in movie studio joint venture planned by CBS, HBO and Columbia; additional HBO agreements approved

The Department of Justice says it will not stand in the way of a $400-million joint venture to be formed by Home Box Office, CBS Inc. and Columbia Pictures Inc. William F. Baxter, assistant attorney general in charge of the antitrust division, said the division had conducted an extensive investigation and concluded that the joint venture and licensing agreements were not likely to have anticompetitive effects.

As a joint venture, the three companies would finance a new movie studio, Tri-Star Pictures, which would produce and distribute theatrical motion pictures and provide HBO with exclusive pay television rights to the films. Baxter said that rather than lessening competition, the joint venture might increase it among motion picture producers and distributors by creating a new competitor in the industry.

Besides the joint venture, the antitrust division examined several agreements entered into by HBO for the production and licensing of motion pictures:

Under one, HBO would be granted exclusive pay television rights to 50% of Columbia's films in production prior to June 30, 1986, and rights to obtain additional Columbia films on an exclusive basis. In exchange, HBO would help finance the production of those films.

Under another, HBO would receive exclusive pay television rights to about 30 films to be produced by Orion Pictures Corp., in return for HBO's participation in financing the films and a $10-million investment in securities.

The division cleared those agreements also, as well as a series between HBO and independent motion picture producers involving pay television rights and the vehicle for financing the production of motion pictures, the Silver Screen Limited Partnership.

None of those arrangements were likely to reduce competition in the distribution of pay programming services to cable television operators or in the licensing of motion pictures to pay television programming services, according to Baxter. The reason, they said, was the number of theatrically successful films expected to be available for licensing by HBO's competitors and the ability of other pay television programmers to invest in film production to obtain exclusive pay television rights.

Baxter made a point of distinguishing between the arrangements in the HBO-CBS-Columbia joint venture and those involved in the proposed joint venture in the division blocked in June (BROADCASTING, June 13). Paramount Pictures Corp., Universal City Studios Inc. and Warner Bros., three major motion picture distributors, were to acquire and operate Showtime and The Movie Channel, respectively, the second and third largest pay television programmers after HBO. The division was concerned about the possibility of collusion at the production level.

The division dropped its opposition to that proposed merger when it was restructured to include only one studio—Warner Bros.—instead of three. The agreements under scrutiny in the HBO-CBS-Columbia proposal, Baxter said, "involve only a single pay television programmer, HBO, and only one of the six major distributors, Columbia." He also said the nature of the financial arrangements between Columbia and HBO "does not encourage Columbia to collude with its production or distribution competitors." As a result, he said, "there should be no increase in the incentive or ability of competitors in the licensing of motion pictures to pay television programming services to coordinate or otherwise restrict, implicitly or explicitly, competitive activities."

Nevertheless, he said, the division would continue to monitor developments in the pay programming industry and would challenge any of the HBO agreements it determined were anticompetitive.

Foundation report may supply fodder for program quantification legislation

National Science Foundation study saying government should require educational programming on TV is being considered by Wirth's subcommittee

The National Science Foundation's recent report on education may play an integral role in the development of broadcast deregulation legislation in the House. The report, released last week, is called "Educating Americans for the 21st Century" and has attracted the attention of House Telecommunications Subcommittee Chairman Tim Wirth (D-Colo.) and his staff, who are working on legislation that will include quantified programming standards for radio and television.

The report recommends that the government require commercial TV stations to "include a required period of educational programming for children." Wirth is reportedly considering using the NSF finding as the basis for quantifying children's programming standards.

A Wirth aide noted that the report is even...