

Face-lift

Responding in large part to the publicity that Showtime/The Movie Channel Inc. has gained from its exclusive licensing agreement with Paramount Studios, HBO executives met with reporters in New York last week to talk about objectives and strategies of Cinemax in the coming year. Cinemax, designed as a multipay service, and specifically as the "perfect complement" to HBO, will have a substantially increased program budget for 1984, according to HBO President Frank Biondi. And while the company "has no interest in cutting rates" to entice systems to sign on, the impression left by HBO executives last week was that if Showtime/TMC initiates a price war, Cinemax will not shy away. "We'll do what it takes," said Tony Cox, president, HBO Network Group, "to make [Cinemax] competitive." At last count, Cinemax had 2.7 million subscribers, making it the fourth largest pay service behind HBO, Showtime and The Movie Channel.

According to Michael Fuchs, president, HBO Network Group, the bigger program budget will be allocated to various Cinemax program segments. For example, in May,

Cinemax will offer 83 movie titles (compared to 53 in January), including more "top-end" titles available for the first time, such as "Tootsie," "Breathless," "War Games" and "Brain Storm." That move represents a bowing to pressure from some cable operators, who have viewed the service as less than compelling without a lengthy menu of such titles. Fuchs said the service will be offering more film festivals in the coming months, and, in the original program area, more concerts and comedy material. Made-for-cable movies will also be added to the Cinemax menu, said Fuchs, as well as more dramatic material (including a three-part series by Ray Bradbury now in development) and more adult original programming, such as a new cabaret show called *Scandals*.

In response to a question concerning reports that HBO was talking with Universal about a possible exclusive licensing deal, Fuchs said the negotiations were centering on a non-exclusive deal only. He also said that HBO would not look to strike an exclusive arrangement with any other major studio (except, of course, Columbia and Orion, with which it already has made deals). As for those who subscribe to the theory that exclusivity spurs growth in the multipay en-

vironment, Fuchs responded, "that's a myth."

Perhaps one of Cinemax's biggest problems is a marketing one. Though HBO executives see clearly how they want Cinemax positioned—right along HBO in multipay homes—operators have frequently voiced frustration as to how best to sell it. Operators see the situation this way, said Fuchs: "It was a movie channel, then it changed. Now what do we call it? I need a sentence." Ted Bates, HBO's advertising agency, is working on that problem with the Cinemax marketing staff. A Cinemax advertising campaign is being developed which Tony Cox hopes will be ready in May.

SMATV clearance

A U.S. district court in New York has ruled in favor of Satellite Television of New York Resources and Riverbay Corp., proposed operators of a satellite master antenna television system in the Co-op City housing project in New York, enabling them to proceed with plans to build the SMATV system which the state cable commission in New York ruled could not be constructed. The District Court for the Southern District of New York lifted a cease and desist order imposed on the SMATV project by the state cable commission. District Judge Gerard L. Goettel of the Southern District ruled that the commission essentially lacked jurisdiction to regulate SMATV operations. Goettel cited an FCC ruling last November preempting "state and local regulation of SMATV systems that [has] the effect of interfering with, delaying or terminating interstate and federally controlled communications services." And while the court stressed there are some circumstances under which local jurisdiction may apply, as when an SMATV system makes use of public rights of way, none of those situations appeared to apply in the present case. Goettel said the state commission's order not only placed a "tremendous, if not overwhelming, economic burden" on the proposed SMATV operators, but also improperly deprived residents of Co-op City of the services to be provided by that system.

The New York Cable Commission, however, has appealed the FCC's decision preempting local SMATV regulation in the U.S. Court of Appeals in Washington, and has also asked that court to stay the effectiveness of that ruling until a decision is reached on the merits of the case. A decision on the stay is expected at any time. If a stay is granted, the New York decision would be thrown into question. "It was not unexpected," said William Finneran, chairman of the New York state cable commission. "The New York case totally hinged on what is happening in the Washington court." The FCC has urged the appeals court in Washington not to grant a stay because, it argued, the state cable commission would probably lose its case on its merits, and, in any event, it has not proved it would be irreparably harmed without the issuance of a stay.

Cable bill flap in Congress. Congressional concern over the cable deregulation bill, H.R. 4103, mounted last week. In a letter to Energy and Commerce Committee Chairman John Dingell (D-Mich.), six members said they feared a "wide range" of interests were not being addressed in the negotiations on the legislation between the nation's cities and National Cable Television Association. The letter arrived the day before the cities' and NCTA's negotiating teams were scheduled to meet last Saturday (March 10) in Dallas (see page 33).

The letter was initiated by Representatives Al Gore (D-Tenn.) and John Bryant (D-Tex.), who are both members of the Telecommunications Subcommittee. Bryant is the author of H.R. 4299, a bill backed by the cities but one that has little chance of passage. Representatives Thomas Luken (D-Ohio), James Scheuer (D-N.Y.), Jim Bates (D-Calif.) and Barbara Mikulski (D-Md.) also signed.

Gore and Bryant, in an earlier "dear colleague" letter to Energy and Commerce Committee members, said they were writing on behalf of a broad coalition and wanted to insure that its concerns were addressed.

The coalition includes: the National Association of Counties, National Association of Regulatory Utility Commissioners, National League of Cities, U.S. Conference of Mayors, American Public Power Association, National Black Media Coalition, American Library Association, National Education Association, AFL-CIO, Cable Television Information Center, United Church of Christ, U.S. Catholic Conference, National Federation of Local Cable Programers and Telecommunications Research and Action Center.

The letter to Dingell highlights that concern: "We fear that all of the issues have not been adequately developed for the committee members. We are concerned that issues important to millions of Americans not be shunted aside in the rush to pass legislation," the letter said.

Bryant was involved in an earlier skirmish with NCTA President Thomas Wheeler over a letter Wheeler circulated in Bryant's district on cable legislation. Wheeler's letter was written on behalf of the Committee for Better Cable Television, which he chairs. According to Wheeler, similar letters were sent to the constituents of other Energy and Commerce Committee members.

"Now the actions of a few short-sighted government officials and several powerful special interest groups threaten to kill the promise of cable forever," Wheeler wrote. He called Bryant's bill "out of step with the times," and said it "gives cities the authority to levy more hidden taxes on cable subscribers." The CBCT letter also included a sample of a letter constituents might wish to sign and mail to Bryant.

Bryant, who received a copy of the letter from a constituent, was irritated. He defended his position in a letter to committee members. He said he "resented the suggestion that he favored 'hidden taxes.'" And Bryant said: "To say I believe that Mr. Wheeler has gone too far in his efforts to discredit the attempts of our mayors and city managers to live up to their obligations as elected officials and do the job of cable franchise regulation which has been delegated to them is an understatement."