

Ad growth

A new study of cable advertising estimates that the industry's advertising revenues totaled \$749 million last year and predicts that they will almost triple by 1990, reaching \$2.2 billion.

The study, *The Cable Television Advertising Market 1986-90*, is the work of Denman Maroney, corporate research supervisor at D'Arcy Masius Benton & Bowles. It's available from the publisher, Knowledge Industry Publications Inc., White Plains, N.Y.

Included in the 203-page report: Despite the expected increases over the next few years, cable will account for only 4% of all media advertising dollars by 1990, local ad revenues, which were \$80 million in 1984, will amount to \$422 million in 1990 or 19% of total revenues; the 10 leading ad agencies accounted for \$212 million of the advertising dollars spent with cable in 1985, and, contrary to cable industry's claim that the typical cable subscriber is young, rich and suburban, the study found that only pay subscribers tended to fit that profile.

Fine line

Satellite Broadcast Networks, which wants to transmit three network-affiliated televi-

sion station signals by satellite to backyard dish owners for an annual subscription fee of \$50, starting in November, is basing its business on untested interpretations of the Copyright Act of 1976.

Under one interpretation, SBN would define itself as a "cable system" for copyright purposes. As such, it would pay fees to the Copyright Office for the compulsory copyright license as would any cable system importing distant broadcast signals.

Under the other, SBN would declare itself a superstation carrier like Tempo Enterprises, which has been distributing WTBS(TV) Atlanta to cable systems for the past 10 years. As a superstation carrier, SBN believes it has the right to deliver broadcast signals to dish owners as well as to cable systems under existing law.

SBN is more likely to adopt the "cable system" approach. The Copyright Act defines a "cable system" as a "facility in any state" that retransmits one or more broadcast signals by "wires, cables or other communications channels to subscribing members of the public who pay for such service." SBN, the theory goes, would be a cable system that retransmits broadcast signals by "other communications channels"—satellite channels.

As a cable system, SBN would be covered

by the compulsory copyright license that allows cable systems to import and retransmit distant signals. SBN would, of course, have to make semiannual payments to the Copyright Office for the license, but the payments would amount to no more than what a conventional cable system carrying three distant network-affiliated stations would pay.

Copyright attorneys are intrigued by the theory, but some think it would be knocked down by the courts if challenged by the broadcast networks or their affiliates. One attorney, who has taken a close look at the theory, estimated it would have about a 30% chance of surviving a court challenge. Applying the compulsory license to cover satellite-to-home broadcasting was never envisioned by Congress, the attorney said.

SBN sees the superstation approach as a backup. It may be permissible for superstation carriers to scramble broadcast signals and serve dish owners as well as cable systems under existing copyright law, but no one is certain of it. In fact, the superstation carriers have been pressing Congress to pass legislation (H.R. 5126) to clarify the law. As amended, the bill would create a special compulsory license to cover service to the home satellite market.

Although the legislation was passed by the House Judiciary Committee last week, its chances of becoming law in the waning days of the 99th Congress are seen as remote because of the staunch opposition of broadcasters, much of which was stirred up by SBN's plans. Even if it does become law, it wouldn't help SBN much. As now written, the special compulsory license would encompass only independent stations delivered to the home, not network affiliates.

SBN President Kazie Metzger downplays the legal risk involved in bringing SBN service, PrimeTime 24, to market. The company has been assured by its legal counsel and others that at least the one of its interpretations is correct and would pass muster in the courts, she said. SBN will be in business in November as planned, she said.

SBN plans to lift three stations, each representing one of the three broadcast networks. Although SBN has yet to identify the specific stations, it has said they will be from New York, Chicago and Atlanta.

Exclusivity deals

Home Box Office has agreed to acquire the "exclusive pay-television rights" to 11 theatrical films that have already been released or will be released next year from Hemdale Film Corp., HBO said. The licensing agreement also covers "an output deal" for HBO to acquire the exclusive pay-TV and home video rights for up to 15 Hemdale films scheduled for theatrical release in 1987 and 1988, HBO added.

Included in the 11 films already released are: "At Close Range," with Sean Penn; "Salvador," with James Woods and Jim Be-

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