HBO signs $500-million film deal with Paramount

Agreement calls for exclusivity starting with next year's films; effect on Showtime uncertain

Home Box Office Inc. has signed an exclusive agreement for the pay television rights to 85 Paramount Pictures films, beginning with those released theatrically in May 1988. The agreement is expected to last at least five years, depending on the film release schedule. The licensed films will be seen on HBO's programing services, HBO, Cinemax and Festival. No price was disclosed, but industry sources estimate the deal to be worth in excess of $500 million. One executive said the price is difficult to determine because it is related to how successful the movies are at the box office as well as the size of HBO's subscriber base.

Robert Klingensmith, president of the video division of Paramount's Television Group, said the company was "pleased to conclude this arrangement with HBO because of the reinvigorated subscriber growth exhibited and anticipated by their services." Said Steve Scheffer, HBO executive vice president of film programing and home video, "Paramount has one of the best track records of any of the major studios and we are certain our subscribers will enjoy this next generation of Paramount films."

HBO, the largest pay television service, had been negotiating for the Paramount package against Showtime/The Movie Channel, the second-ranked pay service. Showtime currently has an exclusive five-year deal for films with Paramount, currently the top-grossing studio in Hollywood, through mid-1988. Paramount's box office hits include "The Untouchables" and "Beverly Hills Cop II," and according to an industry source, some Paramount titles now in production for release in 1988 are "Crocodile Dundee II," "Star Trek V" and "Raiders of the Lost Ark II." They would be available to HBO in 1989.

How the HBO-Paramount deal affects Showtime, which has aggressively sought exclusive titles, remains to be seen. According to one industry analyst, Mark Riely of Eberstadt Fleming, the loss of Paramount will hurt. Showtime/TMC's agreement with Paramount was "the cornerstone" of Showtime's strategy to make the pay service "a logical companion service in the consumers' mind" with HBO, rather than Cinemax, he said. Of Showtime's exclusive deals, Paramount's "was by far the most important," Riely said, adding that "clearly HBO is trying to break that strategy."

Asked how it will affect Showtime's ex-

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clusivity strategy John Tinker of Morgan Stanley said: "I think it means Showtime has got a problem." Showtime has "traditionally been number two and its problem was to differentiate itself and therefore it adopted the policy of exclusivity," telling cable operators "you have to carry Showtime or else you won't get to see half the good movies." The Paramount deal, coupled with HBO's existing exclusive contract with Warner Bros., gives HBO rights to movies from two studios whose films tend to well at the box office, Tinker said.

For "roughly the next two years," said Fred Schneier, senior vice president of program acquisition and enterprise of Showtime/TMC Inc., the pictures that go to pay TV from Paramount will be exclusive to Showtime/TMC. "Thereafter, we will replace the lineup from Paramount with other exclusive movies" because this is "an ongoing series of cycles which complete and then start again in whatever configuration exists." Orion Pictures, for example, "completed an exclusive cycle with HBO and has now entered an exclusive cycle with us," he said. (Currently, in addition to its exclusive arrangement with Paramount and Orion, Showtime/TMC also has exclusive deals with, among others, Walt Disney's Touchstone Films and Imagine Films Entertainment.)

Showtime, which Schneier said is profitable, is continuing to pursue its exclusivity strategy. He said that Showtime's current Paramount lineup "enabled us in large measure to prove and support the exclusivity strategy," which is "now strong and deep and continuing." He said that Paramount was "a significant ingredient in the [exclusivity] recipe. That ingredient, two years from now, will change... [and] be even tastier one than it is today." Schneier said also that Showtime/TMC is "always in discussion at one level or another with potential exclusive sources."

As for whether HBO's deal is an attempt to break that exclusivity strategy, Sheffer said: "HBO can't break Showtime's strategy" that only Showtime can do that. "Our effort is to make our services the best services and not worry about the competition," he said. Paramount fit into HBO's film strategy of "high volume of top quality movies," he said, adding that HBO would have preferred a nonexclusive arrangement with Paramount.

Paramount and HBO Pictures also entered into an agreement through which they will jointly finance a number of original films made for pay TV. □

FCC's cable rules get A- from court

The FCC's rules implementing the Cable Communications Policy Act of 1984 generated enormous controversy, with dozens of parties opposing or supporting them. Last week, they emerged from the review of a an appeals court somewhat bloodied but, in the main, unbowed. The key feature of the rules—establishing the standard for what constitutes effective competition for cable systems and, therefore, denies local franchising authorities the authority to engage in rate regulation—was affirmed in an unsigned opinion by a panel of the U.S. Court of Appeals in Washington. So was the commission's assertion it would exert only limited jurisdiction over the resolution of franchise fee disputes. The panel, however, reversed the commission on other aspects of its order, and remanded them for further consideration.

The primary focus of the rulemaking was to determine the circumstances under which local authorities would be allowed to regulate cable systems' rates for "basic cable services"—that is, where "effect competition" did not exist. The commission held that such competition would exist where any three "off-the-air" broadcast signals were available in the cable community. Representatives of the nation's cities said such a single standard was arbitrary and irrational. But the court found the commission's action, "for the most part, neither arbitrary, capricious nor otherwise contrary to law."

Similarly, it found that the commission, at least on reconsideration, had acted reasonably in determining when it would intervene in disputes under the Cable Act's franchise fee provision, which limits such fees to 5%. The commission initially had said it would "forbear" from adjudicating such disputes, and would leave them to the local courts. On reconsideration, it modified that position to the point of saying it would entertain fee disputes that "directly impinge" on national policy involving cable communications and implicate the agency's expertise. That appeared to satisfy the panel, which made clear its concern that the commission implement what the panel said was Congress's determination to establish a national policy.

Among the aspects of the commission's order that the panel overturned:

■ Redefinition of "basic cable service." The Cable Act defines the term as "any service tier which includes the retransmission of local television broadcast signals." The commission, however, defined basic service as "the tier of service regularly provided to all subscribers that includes the retransmission of all must-carry broadcast signals... and the public educational and governmental channels, if required by a franchising au-