

### HBO bags Fox films

As expected, HBO has acquired exclusive pay cable exhibition rights to 20th Century Fox films produced from 1989 to 1991. The pay service has access to the film package starting January 1990. The three-year deal is valued at \$250 million-\$300 million, depending on box office performance and HBO's subscriber levels. The Fox deal is the latest package HBO has added to its exclusive film arsenal. The pay service also has exclusive deals with Paramount (six years, starting in 1989); Warner Bros. (described as "de facto exclusive" in that Showtime has opted not to buy packages to which HBO has rights, which extends to 1991), and Columbia and Tri-Star (separate deals that run exclusive from 1984-88, then nonexclusive through 1991). Showtime has locked up package deals with Disney's Touchstone Films through 1991.

month clause "caused us to wonder," said Woods.

Woods eventually closed the deal with the caveat that the price of \$13 million would drop by \$5 million in the "highly unlikely" event that network affiliation would be lost in the next year.

The June letter from ABC described the technical, operating and ratings criteria for affiliation and, in response, KDEB-TV undertook \$3 million in improvements, said Woods, believing that would solidify continued affiliation.

In April 1986, ABC informed the station it would terminate the affiliation agreement in six months, and in October 1986 KSPR became an ABC affiliate while KDEB-TV became an independent/Fox affiliate. Both stations are UHF's, KDEB-TV on ch. 27 and KSPR on ch. 33.

Woods said that had he known ABC intended to yank KDEB-TV's affiliation, "I would have walked away from that deal." Woods said last week that in the trial an ABC official testified that the network's management had voted in May 1985 to

switch affiliations in the market, two months before the deal closed, and nearly a year before ABC told the station of its final decision. In June 1985, when ABC informed the station of the renewal criteria, KDEB-TV was told ABC was deferring a final decision until the end of the year. That coincided with the closing of Capital Cities' purchase of ABC, in January 1986. Three months later, KDEB-TV received the termination notice.

KDEB-TV had asked for \$109 million in damages, \$9 million in actual and \$100 million in punitive, when it brought suit. The jury deliberated five hours before returning a unanimous verdict in the federal court for the western district of Missouri earlier this week, awarding \$1.5 million in actual and \$2 million in punitive damages.

ABC would not comment beyond an issued statement saying: "We feel the verdict is inconsistent with the facts and with the evidence that was presented, and we will take all necessary steps to have it reversed." ABC is expected to file an appeal within the next week. □

## TV networks again support poll closing amendments

**They tell Senate, if uniform closing time is adopted, they will not use data from exit polls to characterize elections**

Representatives of the three television network news organizations testified before the Senate Committee on Rules and Administration last week, in support of S. 182-H.R. 435, which would establish a uniform poll closing time in the continental U.S. for presidential elections. The representatives of CBS, ABC and NBC reaffirmed their commitment not to misuse exit polls, mitigating a flap that could have erupted over NBC's use of exit poll data during the New York primary (BROADCASTING, April 25). NBC apologized for the incident.

Opening the hearing was Senator Brock Adams (D-Wash.), who stressed the importance of the cooperation of the networks in making the uniform poll closing act successful. "If we do not have a commitment from the networks not to characterize an election before the polls close, we are wasting our time here today," he said. "If I choose to go to my polling place in Seattle after the polls have closed in the East I do not want to hear anyone, and I mean broadcasters, pollsters or star-gazers, telling me who they predict has won or lost the election." Adams also expressed concern over NBC's April use of exit poll data in calling the race. "The actions of NBC at both the local level in New York and on its network newscast cast doubt on its commitment not to misuse exit polls," said Adams.

The bill, which passed the House last year (BROADCASTING, Nov. 16) would have polls close at 9 p.m. EST in all four continental time zones—Alaska and Hawaii would be exempt. Daylight saving time would be ex-

tended for two weeks in the Pacific time zone, making closing time on the West Coast 7 p.m. local time. Senator Ted Stevens (D-Alaska) said he would not hold up the bill, although he had difficulty with the exemption of his home state and Hawaii. Stevens suggested that one possibility might be for polls in those states to open the night before and close at the same Eastern time, in lieu of his earlier proposal to make the national election day a holiday, a proposal he still supports.

After the opening remarks by committee members Stevens and Adams, the hearing heard testimony from the Senate bill's author, Senator Don Reigle (D-Mich.), Senator Alan Cranston (D-Calif.), who played a tape of the three networks' coverage of the New York primary, and Representatives Al Swift (D-Wash.) and William Thomas (R-Calif.), the House bill's sponsors. The tape showed ABC anchor Peter Jennings and CBS's Dan Rather citing their agreement with Congress not to broadcast predictions before the polls close, while NBC's Tom Brokaw was presenting exit poll data to predict Dukakis as the winner and John Chancellor, in his commentary, offering a breakdown of voting patterns. Cranston said the NBC broadcast aired two hours before poll closing.

Speaking for NBC was Thomas B. Ross, senior vice president, NBC News, who expressed NBC's support for the bill and repeated the position of NBC as expressed by News President Larry Grossman before a House subcommittee in 1985. "We 'project' election results in any state only after all polls for the office have closed," said Ross. "Were a national uniform poll closing in place, NBC News would not use election

day voter polls to project or characterize the outcome of a national election until polls in all states were closed." Ross also restated the caveat that NBC would reserve the right to refute "false or misleading" broadcasts. Ross stated that the caveat was not a modification of its position. When asked about the New York primary incident, Ross described it as "an inadvertent aberration" that would not be repeated.

Expressing similar support for the bill were George H. Watson, vice president and Washington bureau chief of ABC News, and Warren Mitofsky, director of CBS News's election and survey unit. Watson repeated a 1984 pledge made by Boone Arledge, ABC News president, not to use exit polls, saying the policy would remain in effect through the presidential elections, and if Congress passes the bill, the policy would become permanent.

Watson submitted Arledge's pledge to the House subcommittee in 1985. Mitofsky gave CBS's support for the bill also, but warned that "underground commerce" in exit polls had become a "cottage industry" that would be widely available to local news organizations by the November election. "Withholding information from the public under these circumstances is not a practice with which any news organization can feel entirely comfortable."

Swift said he was concerned that the warnings expressed by Ross and Mitofsky could be an excuse for the networks to abrogate their promises, noting that the networks should have better control of their own information. He said that local stations generally do not have the ability to conduct their own exit polls and tend to follow the example set by the networks. □