more important than sports programing. Why are we having such a terrible time [in finding room for children's programing]?"

Obuchowski said that "the First Amendment commitment is strong" so far as the Bush administration is concerned, "though not so overwhelmingly we won't listen to arguments." And in response to Exon's charge that "it ain't going to change," she said she could not predict what the Bush administration will do, that the new administration was reviewing the matter "issue by issue." "We're coming from a position where the Reagan administration took an absolute position"—President Reagan vetoed a children's television programing bill on the ground it violated the First Amendment. The new administration, Obuchowski said, "will give [the matter] a fresh look."

Two children's television bills are at issue in the Senate. One, sponsored by Inouye and approved by the full Commerce Committee but not yet introduced, would incorporate an evaluation of each station's service to children as an essential part of the licensee renewal process and would require each station to provide educational programing specifically designed for children. The measure is strongly opposed by the National Association of Broadcasters, which has expressed support for a measure introduced by Senator Howard Metzenbaum (D-Ohio). The bill (S. 707) includes no educational program requirements, stating only that stations serve the needs of children through their "overall programing."

Cable television is another issue that appears to worry Exon. He said that "many members of Congress believe cable has exploited its position as an unregulated monopoly by charging high rates," and asked, "Are you concerned about cable, about its growing market power? Would you constrain cable abuse of monopoly [power]? This is a matter of increasing concern," one that congressional witnesses raise frequently.

Obuchowski agreed that cable systems have "tremendous market power." She noted they do not face competition from other systems and are unregulated. But she said the "record of abuse is inconclusive." She said cable service "is not all a bad news story." She said it would not have achieved its rapid growth without providing good service. But, she said, "Cable is running close to the edge" with respect to rates. Still, she said, "I wouldn't recommend legislation to deal with the problem."

And when Exon complained about the "junk" offered him by the cable system (Cable TV Montgomery) that serves his home in Bethesda, Md., and said he would willingly pay $25-$35 more for a greater selection that might be provided by another system, Obuchowski said Exon had "hit the nail on the head." For the best way to deal with problems of cable, she said, is to deal with the cable system's status as "a franchised monopoly. We'll consider any suggestion for introducing competition—that's better than micromanaging rates and program content."

In other matters, Obuchowski:

Suggested three steps for dealing with what she described as "the increasingly complex area" of spectrum allocation. She said the government should "plan ahead" in determining spectrum needs, learn how to use the spectrum in the uppermost bands, which now seem less hospitable, and tighten up administrative processes at the FCC, whose current procedures, she said, penalize those proposing innovative uses of the spectrum.

She said there were actions the government could take to help the American electronics industry gain ground in the international race to develop and market high-definition television. She said the government should "get its act together in standards development"—an effort she said NTIA and the commission are making. Passage of the capital gains tax, as urged by President Bush, would also help, she said. And, she said, "antitrust reform" is needed to permit joint ventures in HDTV development. No one else in the world, she said, considers "big as being bad." —LZ

Duopoly question in Buffalo

FCC is asked to turn down request for waiver and reject sale of TV station to Act III because of signal overlap

Act III's purchase of WUTV(TV) Buffalo, N.Y., from Citadel Communications for $46 million in September ("Changing Hands," Sept. 11), has caused something of a stir, with rival broadcasters from Buffalo and Rochester, N.Y., busily trying to stop the deal at the FCC.

The problem is that Act III already owns WUHF(TV) Rochester, and owning both would violate the FCC's duopoly rule prohibiting common ownership of TV stations with overlapping grade B contours. Act III has requested a waiver of the duoploy rule.

An overlapping contour is not the only thing upsetting the other broadcasters. At the same time that the WUTV deal was announced, Niagara Frontier Broadcasting Partners sold WNYB(TV) Buffalo to Tri-State Christian TV for $2.5 million. Part of the agreement for those purchases is that Act III will acquire the program library and studio equipment from WNYB. WNYB, currently a Fox affiliate, will become a religious station. Seymour Knox and Robert Swados, controlling shareholders of WNYB, will be given an equity interest in Act III and board representation for both Act III and Act III-Buffalo.

Act III says that the nature of the Buffalo market makes it virtually impossible for two conventional UHF stations to survive and that WNYB-TV has lost millions of dollars in the last two years. The FCC approved the sale of WNYB last week (see "For the Record," page 93). Petitioners fear this will give Act III an unfair advantage because it will control the only two commercial independents in Buffalo and Rochester. And there is a possibility that Act III may go after a third in Jamestown, N.Y., thus giving it three independents in Western New York.

Act III's waiver petition states that the overlap between WUTV and WUHF is de minimus—minimal—and that the benefits of waiving the rule "outweigh any detriment."

Trying to stop the purchase are Buffalo

Washington Watch

Combination. Washington-based communications law firm Dow, Lohnes & Albertson announced merger with Ingersoll & Blochy Chartered, real estate and financial analysis law firm with offices in Washington and Florida. Combined firms will practice under name of Dow, Lohnes & Albertson. Dow, Lohnes & Albertson, founded in 1918, will now include about 225 attorneys.

Fairness request. Radio-Television News Directors Association President David Bartlett has written to Senate and House members of Conference Committee considering budget reconciliation bill to urge that fairness doctrine provision be stricken from measure. House included provision in its version of bill. Bartlett, in his letter, said doctrine "is both unconstitutional and unwise," especially when enforced through imposition of fines on journalistic expression, as provided for in House bill. What's more, Bartlett said, fairness doctrine is "extraneous to budget reconciliation." He also said "definitional language" in House bill makes it clear that cable television programing over which cable operators have editorial control is intended to be subject to fairness doctrine. And, he noted, there is "not even the outmoded justification of spectrum scarcity" that could be applied to fairness doctrine regulation of cable television.

Money matters. FCC reauthorization bill (H.R. 3265) for fiscal 1990 and '91 passed House last week. It would establish funding levels of $109.8 million for FY '90 and $121.5 million for FY '91. FCC measure includes amendment that would enable FCC, at its discretion, to assess impact of European Community's directive setting quotas for American programing. House also approved reauthorization measure for National Telecommunications and Information Administration. Agency could receive $14.6 million for FY '90 and $14.7 million in FY '91.