

According to Quello, his plan like that of NTIA, would allow networks to acquire financial interest through a separate negotiation after the basic licensing agreement, would lift the prohibitions on in-house productions and foreign syndication, but keep the networks out of domestic syndication.

If the networks want to syndicate their in-house productions, Quello said, they will have to do it through an independent syndicator in order to prevent warehousing.

Quello cautioned that his ideas are preliminary and are likely to change somewhat between now and the time the

reformed rules come up for a vote next year. One thing he is looking at, he said, is imposing additional conditions on the financial interest negotiations to give producers further protection. "The two-step negotiation is a good starting point, but it may need to be fine tuned," he said. —HAJ

BASEBALL ASKS FCC FOR LOCAL EXCLUSIVITY AGAINST SUPERSTATIONS

Major League Baseball is seeking an FCC ruling whereby television stations that broadcast baseball games can force cable systems in their markets to blackout the same games brought in on superstations like WTBS-TV Atlanta and WGN-TV Chicago.

"If a [baseball] club licenses a local broadcast station the exclusive right to televise its games, cable systems should not be allowed to nullify that grant of exclusivity by importing, pursuant to the compulsory [cable copyright] license, distant signal broadcasts of the very same games," MLB said in its seven-page petition.

MLB asked the FCC to redefine "network program" in the FCC network program nonduplication rules to include "all live broadcasts of the same sports event." As now written, the nondupe rules grant stations the power to enforce exclusivity of network programming against cable systems. (As of Jan. 1, 1990, the FCC brought back syndicated exclusivity rules, which empowers stations to enforce the exclusivity of syndicated programming.)

Robert Garrett, of Arnold & Porter, Washington attorney for MLB, said the petition is aimed at remedying the problem that arises when a local broadcast station, say, KPLR-TV St. Louis, which holds the rights to the St. Louis Cardinals, broadcasts a Cardinals-Chicago Cubs game from Chicago and superstation WGN-TV, which holds the rights to the Cubs, airs the same game. Since many cable systems in the St. Louis market import WGN-TV, their subscribers receive both broadcasts and KPLR-TV's exclusivity is negated.

"If you're Viacom, you can give KPLR-TV exclusive rights to air *Cosby* and systems carrying WGN-TV have to black it out," said Garrett. "Baseball simply wants the same right to grant exclusivity that the syndicators and networks do under the existing rules."

What goes for MLB also goes for the

National Basketball Association and the National Hockey League, according to Philip Hochberg, a Washington attorney for both leagues, although the number of basketball and hockey games televised by superstations and, thus, the magnitude of the problem, are not as great. "We, too, believe that when a station purchases exclusivity to games that it should be no less honored than that which the FCC has recognized in its Jan. 1 revisions of the syndex and non-duplications rules," he said.

Due to the common interest, Hochberg said, the NHL and NBA will file comments in support of the MLB petition on Oct. 4.

Among those preparing to oppose baseball's petition is United Video, satellite distributor of WGN-TV Chicago and other baseball-laden superstations to cable systems. "For the [superstation] signals to be chopped up even more and made even more difficult for cable systems to receive doesn't make any sense," said Bob James, of Cole, Raywid & Braverman, who represents United Video. "There doesn't seem to be any need for it," he said, adding that the FCC has ignored similar requests from MLB in

the past.

MLB filed its petition on Aug. 8, which means that comments should have been filed last Friday (Sept. 7), even though the FCC did not get around to putting the petition on public notice until Aug. 23.

Recognizing that original public notice—a single item among many others—did not convey the "full importance" of the petition, said Barrett Brick, a staff attorney in the cable branch of the Mass Media Bureau, the FCC decided to issue a second stand-alone notice last week and to extend the deadline for comments to Oct. 4, and for replies until Oct. 24.

According to MLB, the FCC has over the years chosen not to issue a definitive ruling on whether the network nondupe rules cover live sports, but to consider such cases on an ad hoc basis.

The case-by-case approach effectively strips the broadcasters' exclusivity. "Grants of exclusivity to broadcasters have no meaning if they can be enforced only through costly and time-consuming administrative proceedings with uncertain results," MLB said. —HAJ

FLORIDA GO-AHEAD

The FCC upheld a Review Board decision giving license renewal expectancy to Metroplex Communications Inc., licensee of WHYI-FM Fort Lauderdale, Fla., while a competing applicant, Southeast Florida Broadcasting Limited Partnership, was deemed "not financially qualified." The Review Board found that WHYI-FM did not violate FCC sponsorship identification provisions, even though a former program director had received illegal drugs from record promoters (BROAD-

CASTING, Nov. 20, 1989). Administrative Law Judge Thomas Fitzpatrick had initially found Southeast Florida ownership structure a "sham" designed to give it preference in comparative hearings ("In Brief," Jan. 30). The full Commission said that Metroplex would have prevailed "under the comparative issue even if Southwest were found financially qualified." Lew Cohen, an attorney representing Southeast, would not comment until he had read the full report.