

SESAC sued for antitrust

Six stations, saying they represent 4,000,
charge music-licensing firm with coercing radio
to buy performing rights for unwanted music

A \$15-million antitrust suit against SESAC, music-licensing organization, was filed last week by six radio stations on behalf of themselves and some 4,000 others (CLOSED CIRCUIT, Oct. 9).

The six stations accused SESAC of illegal price-fixing and block-booking. In addition to \$5-million damages, under the antitrust laws, they asked that the estimated 4,000 SESAC licenses currently in force with radio stations be voided and that SESAC be permanently restrained from illegal practices.

The suit charges that SESAC "coerced" stations into taking "blanket" licenses at "exorbitant" prices covering the use of all SESAC music even though stations use and want "only a small fraction" of it.

SESAC has at least 20 days to file its answer to the suit.

The six plaintiffs acted unofficially as representatives of the All-Industry Radio Station Music License Committee, which has been planning the move and soliciting support for several months (BROADCASTING, April 10, et seq.). Their complaint was filed by Emanuel Dannett of the New York law firm of McGoldrick, Dannett, Horowitz & Golub, counsel to the committee.

Six for All ■ The six stations are

wwrl New York and wol Washington, both members of the Sonderling group; wlna Peekskill, N. Y.; wpta Batavia, N. Y.; womt Manitowoc, Wis., and kely Ely, Neb. The complaint said they were acting for themselves and approximately 4,000 other radio stations—the number estimated to have paid license fees to SESAC in the past four years—because questions common to the entire class are involved—but it would be impracticable to bring them all into court.

Members of the all-industry committee are Elliott M. Sanger, retired chairman of wqxr New York, who is chairman of the committee; George W. Armstrong of the Storz stations, who is vice chairman; John J. Heywood of Avco Broadcasting, treasurer; Robert D. Enoch of wxlw Indianapolis, secretary; J. Allen Jensen of kid Idaho Falls, Idaho, and Herbert E. Eyans, consultant to National Communications Inc.

Some of the charges in the suit, filed in U. S. Southern District Court in New York, echo gripes that individual broadcasters have made unofficially—and sometimes, more officially, in complaints to the Federal Trade Commission—over several years.

One of these is that stations have

taken out SESAC licenses under threat of being sued by SESAC for copyright infringement. Another is that it's often hard and sometimes impossible to tell whether a given piece of music is licensed by SESAC or not.

'Blanket' Deal ■ The complaint also charges that SESAC refused to grant radio networks a "clearance at the source" license, one that would not require network affiliates to pay separately for SESAC music on the network, unless 90% of the affiliates took out "blanket" SESAC licenses.

"Under the circumstances," the complaint asserts, "network affiliates, in order to broadcast network programs, had no choice but to sign blanket SESAC licenses which covered not only network programs but all local programs, even though few, if any, local programs used SESAC compositions."

The complaint also contends that many syndicated programs and transcribed commercials, and many local programs such as church services and sports events, contain music that stations have no part in selecting and whose copyright ownership is not as a rule known to stations. Similarly, the suit continues, the labels frequently don't identify the copyright owners of the music on the 250 or so records played by a station in a given day.

With knowledge of these problems, "SESAC has refused to issue any form of license which will permit a broadcaster to pay for only such SESAC musical compositions which have actually been used by the broadcaster or for such programs which have actually utilized SESAC compositions," the complaint continues.

The suit also asserts "upon information and belief" that "only a small fraction of the musical compositions broadcast by plaintiff broadcasters are SESAC compositions, and only a few of their programs use any SESAC compositions."

Conditioned Offer ■ SESAC "from time to time has purported to offer" licenses on a "per-piece" basis, but only on condition that SESAC be given advance information regarding the composition to be played, according to the suit. The broadcaster in most such cases

Ham-and-eggs and news-in-depth

A CBS radio affiliate in Baltimore today (Oct. 16) embarks on a new format for network affiliated stations—and it hopes that it reads the wishes of Baltimoreans correctly.

WAYE, a daytime-only good-music outlet, has convinced the network that its listeners were interested in in-depth news and commentary programs in the morning. Agreeing, the network has approved the station carrying in its all-news morning show all major CBS News features that normally would be run at different times during the day. These will include, in addition to regular local and CBS News programs, such

"Dimension" features as Harry Reasoner, *Dear Abby*. *Report from Hollywood*, Betty White, Mike Wallace, *Report on Health*, Phil Rizzuto, and Alexander Kendrick.

This format will run from sign-on to 9 a.m., after which the station goes to its good-music format, although it will cut in for the hourly CBS News reports. The only exception is that the station regularly will carry CBS' *Arthur Godfrey Show*.

WAYE has just been acquired by Adler Communications Corp., which bought the 1-kw, 860-kc outlet from Guy S. Erway for \$790,000 (BROADCASTING, Oct. 2).