

Congress adopted the compulsory license fee in 1976.

Washburn, however, said the commission should defer action pending congressional review of the copyright law. He asked Nichols: "Don't you think cable is going through a revolving door on someone else's push?"

Quello, while approving of the distant signal analysis, said the staff was "too anxious" to prove there was no need for syndicated exclusivity. In his dissent he quoted a Storer Broadcasting analysis that harshly criticized the economic report from the Cable Bureau.

In the Tuesday meeting Quello expressed concern about what he felt was a "distinct" economic advantage cable had over traditional broadcasters, and he said he did not know "the potential impact on UHF development" a rule change would have.

Ferris responded by saying: "Our staff has found that cable has in many cases improved the profitability of broadcast stations by improving the reception of an otherwise weak UHF signal."

Quello was not to be swayed. "Elimination of syndicated exclusivity is not justified; there's a basic inequity; it's not wanted and doesn't serve the public interest," he said. "It doesn't provide true programing diversity, just time diversity."

Quello added: "What's going to happen in three years with cable coming on faster than ever before? There's a dissolution in revenues and a dissolution in service . . . We're flaunting the intent of Congress." Quello then proposed that the commission delay action until the Copyright Royalty Tribunal adopts new compensation rates. He advocated oral argument, meanwhile, so the commission would be equipped with "fresh data" to make its decision.

Washburn and Lee agreed with this pro-

posal. Ferris and Brown, however, argued that the commission should not delay until Congress acts, despite requests from Congress to do so. Both said that Congress, in adopting the 1976 act initiating the compulsory license fee, along with subsequent acts of the CRT, provide parties with a proper forum to seek a change in compensation arrangements.

It appeared for a while during the meeting that a compromise might be reached on the syndicated-exclusivity issue. Commissioner Fogarty said that although he believed the rule to be "inane" and has advocated its repeal for a long time, he was concerned about the "timing" of such a repeal. "The commission foisted these rules on the individual parties and it would be inequitable to repeal them without the transition necessary for parties to adjust to a change in policy." He advocated a transition period of some sort for existing contracts.

Quello said he would work with Fogarty on drafting a proposal for a three-year moratorium, one that would protect not only existing contracts but any new ones until a three-year cut-off date.

FCC General Counsel Bob Bruce, however, cautioned that it would be an "extremely heavy burden," to justify delay on the basis of the record.

The commission recessed for lunch, during which time Quello and Fogarty agreed to draft a proposal satisfactory to all. The proposal, which never made it through the mill, said: "In view of past reliance upon our syndicated-exclusivity rules in contract negotiation, protection will continue to be provided to licensees for syndicated-exclusivity contracts entered into prior to July 22, 1980, for their duration (including extensions for which consideration and terms for such extension periods have been agreed upon

therein) or not longer than three years, from July 22, 1980, whichever occurs first."

Quello, after having worked for a majority decision on this point, announced—to general surprise—that he could not move to adopt the proposal. He later explained that he felt he would be "giving up too much for such a little return." What Quello wanted was a moratorium for all contracts, but a majority of the commission was willing to go only as far as a three-year hiatus for existing contracts. Quello did want to make it clear that if the commission had retained syndicated exclusivity, or had adopted a moratorium plan, he would have favored unlimited distant-signal carriage.

The FCC also denied the proposal to adopt rules requiring cable systems to obtain retransmission consent from the originating station before carrying that station's signal. It found that "retransmission consent was a surrogate for full copyright liability, and that Congress had considered and rejected full copyright liability in favor of the compulsory license fee system in 1976." Therefore, it concluded the adoption of such rules would go beyond the commission's statutory authority.

Tom Wheeler, president of NCTA, said he was "extremely pleased that the rules which have limited consumer choice for the last eight years have finally been lifted and that cable systems will finally provide the most service to the most consumers in the best way possible." Not only did Wheeler stress the importance of the kinds of programing now to be made available to consumers, but he also said, "the heart of this decision allows consumers time diversity" in addition to increasing viewing options.

Wheeler acknowledged that the "ball

In Brief

House Commerce committee last week began **mark-up of H.R. 6121 common carrier amendments** to Communications Act, but skidded to abrupt halt. Committee found itself entangled in parliamentary procedure and got only part way into reading of bill before action on House floor postponed Wednesday (July 23) session. Thursday meeting was canceled for same reason. Committee will try again this week, with number of potential new roadblocks having surfaced.

Reagan-Bush Committee and chairman of one of several committees organized to raise money to produce and buy time for radio and television commercials in behalf of Ronald Reagan's presidential campaign are **urging broadcasters not to be frightened by Carter-Mondale Committee letter** they received last week. Letter warns of litigation if they carry those commercials (BROADCASTING, July 21). Loren A. Smith, chief counsel to Reagan-Bush committee, in letter to several hundred television stations that received Carter-Mondale letter, said that there is no connection between that committee and "independent expenditure groups" and that threats in Carter-Mondale letter "are based on dubious or nonexistent legal grounds." Senator Harrison Schmitt (R-N.M.), chairman of Americans for Change, said in statement in *Congressional Record* that Carter-Mondale letter constitutes "blatant intimidation of broadcasters that borders on harassment." And in news release, he said threat is baseless. "We have every legal right to buy commercial broad-

casting time to present our point of view." . . . **That point is being litigated, however.** U.S. Court of Appeals in Washington on Thursday rejected Carter-Mondale request to block issuance of \$29.4 million in federal financing to Reagan on ground that independent groups that plan to raise up to \$60 million in Reagan's behalf are violating campaign laws. However, court ordered prompt creation of special panel to hear two suits challenging legality of that fund-raising.

New York Times Co. has signed deals to purchase Cable Systems Inc. and Audubon Electronics, holders of 55 franchises near Philadelphia in southern New Jersey. Times pays **\$119.2 million**—\$82.7 million in cash and notes including interest (payable over six years) and \$36.5 million in construction costs. Systems now have 56,000 subscribers and pass 123,500 homes. Times can pull out of deal if level isn't at least 73,000 subscribers and 160,000 homes passed by early next year.

Demands of producing around-the-clock TV news are **taking toll at Washington bureau of Cable News Network.** George Watson, vice president and managing editor, and David Newman, executive producer, were close to resigning last week, but, on advice of CNN President Reese Schonfeld, are taking two-week vacations before making final decisions. Schonfeld, who had gone to Washington last week to discuss strategy for coverage of Democratic convention and wound up trying to keep bureau's key personnel from straying, would not speculate on whether they would actually resign upon their return. Neither Watson nor Newman could be reached for comment. Schonfeld knocked down speculation that there was bad blood between him and Watson. There has been "no jockeying for authority," he said.