

nonnetwork programing on distant signals is counted for the payment of royalties under the copyright law. The NAB arrived at its scale of payments by tracking distant, nonnetwork programing on every cable system and matching it against the fee paid by that system to the cable royalty pool. Payments to individual stations will be based on their total representation in the NAB's compilation. Individual receipts will run from less than a dollar for stations at the bottom of the carriage list to something under \$20,000 for Ted Turner's superstation, WTBS(TV) Atlanta, which is carried by cable coast to coast.

The NAB had put in claims far in excess of the total of under half a million dollars that the tribunal awarded commercial telecasters. A decision whether to appeal will be made at an Oct. 9 meeting of the NAB's ad hoc committee on cable copyright royalties.

Meanwhile, the CRT begins a new round of hearings today (Sept. 29) to comply with the law's instruction to make periodic adjustments for inflation in the fee cable systems pay to the copyright pool.

Not quite down for the count

H.R. 6228, crossownership bill with VHF and union provisions, nearly dies as House fails to pass with two-thirds majority; parts of measure could pass before adjournment

Congress last week all but closed the door on any chance of moving broadcast legislation to the President's desk this term—and then opened it again. The House, by a vote of 215 to 176—84 votes short of the required two-thirds majority—shot down H.R. 6228, which would have codified existing FCC crossownership rules while protecting multimedia licenses against challenges on ownership grounds, repealed the Lea Act, and opened the door for commercial VHF TV service in New Jersey.

The legislation, in its original form, was conceived by Representative Al Swift (D-Wash.) and was designed only to deal with the crossownership provisions. But on the way to full committee mark-up, the bill picked up amendments.

The most controversial amendment was drafted by Representative Andrew Maguire (D-N.J.), to require the FCC to insure that each state have at least one commercial VHF station. As the amendment was worded, the FCC would have had to assign a VHF frequency to a state that did not have one if a license elsewhere was revoked—and all legal appeals had been exhausted—and if the transfer were technically feasible. With the license of RKO-owned WOR-TV New York having been denied and the decision headed for an appeal, New Jersey has its eye on that ch. 9 frequency.

Although the legislation was reported

from the Commerce Committee by a 17-to-4 vote, the consensus was that because of the controversial Maguire language, the bill might not find the necessary support on the floor (BROADCASTING, Sept. 22).

The legislation bypassed the normal House rules and was brought up on the suspension calendar—reserved for non-controversial bills—with amendments prohibited and a two-thirds vote necessary for passage.

But not everyone agreed that the bill was noncontroversial. Representatives James Broyhill (R-N.C.) and James Scheuer (D-N.Y.) argued on the House floor that the bill should be brought up under regular rules so it could be amended. The bill represents "a transparent and totally inappropriate intervention by Congress in the regulatory process," Scheuer said.

While the New Jersey delegation, led by Maguire, was looking for support of the measure, Broyhill and Scheuer led the opposition. In a "Dear Colleague" letter, the two urged that the bill be defeated.

"Congressional enactment of such a provision would set an extremely bad precedent in which the Congress, rather than the appropriate federal administrative agency (the FCC) would specifically establish frequency assignments," the letter said.

Although the bill appeared dead, the House Commerce Committee managed to breathe new life into it the following day (Sept. 24). The committee split the legislation into three separate bills and approved the Swift measure and the Lea Act repeal. A quorum was not present for a vote on the Maguire amendment, but in a subsequent session the committee approved it also.

The bills will now go back to the House floor, although this time separately. The crossownership provision and the repeal of the Lea Act have been scheduled for floor action tomorrow, while the Maguire bill has not yet been scheduled.

Moving against Mobil

Mobil Oil ads may soon have some extra information. Under a consent agreement with the Federal Trade Commission, Mobil has agreed to disclose that some cars using Mobil 1, which is said to reduce oil consumption up to 25%, may actually increase oil consumption.

According to the FTC, the synthetic motor oil may increase consumption in some sports cars and older or high-mileage cars. Under terms of the agreement, if Mobil claims in ads that the product results in reduced oil consumption, it must also recommend that consumers check oil levels frequently.

The order stipulates that the disclosure on TV and radio ads last at least eight seconds. The television disclosures can be in either audio or visual form.

The consent agreement will be placed on the public record until Nov. 21 for comment, after which the commission will decide whether to accept it.

NAB seeks FCC stay of repeal of last big cable rules

Association is joined by Field in asking for delay until Malrite case moves through court

The National Association of Broadcasters has petitioned the FCC for a stay of the commission's order of last July repealing the cable syndicated exclusivity and distant-signal rules pending the outcome of a suit initiated by Malrite Broadcasting in the U.S. Court of Appeals in New York that challenges the FCC decisions.

If the commission fails to act on NAB's motion for stay by Oct. 3, the association will seek a stay in court. The order repealing the cable rules is scheduled to take effect Oct. 14.

Field Communications Corp., a San Francisco-based group owner of five TV's, also filed a motion for stay of the commission's cable deregulation action, accompanied by an affidavit by its president, Don B. Curran, attesting to the irreparable harm that would be caused to that station group if the repeal of the two cable regulations is put into effect.

Field Communications is licensee of KBHK-TV San Francisco; WFLD-TV Chicago; WLVI-TV Cambridge, Mass.; WKBD-TV Detroit, and WKBS-TV Burlington, N.J., all independent UHF stations.

The NAB's stay is based on four premises: (1) Malrite will most likely win its case; (2) broadcasters will suffer irreparable harm if the commission's order goes into effect; (3) the cable industry would not be substantially harmed by a stay, and (4) a stay is in the public interest.

The NAB petition argues that the FCC's decision to repeal the two rules "was accomplished only through arbitrary and capricious disregard for cogent arguments supporting the retention of these rules." Repeal of the rules, NAB claims, "favors the special interests of the cable industry and its subscribers over the interests of the entire viewing public."

In a 4-3 vote last July 22, the commission eliminated all limits on the number of broadcast signals a cable system may carry and removed the protection formerly granted local television stations against duplication of the syndicated programing to which they hold exhibition rights (BROADCASTING, July 28).

In the affidavit submitted with the Field motion for stay, Curran said that loss of exclusivity rights for the Field stations—even on an "interim" basis pending appeal—would mean reduced value of the programing to advertisers and thus a loss of station income. If local viewers can choose to watch the same programing on a distant signal imported by a local cable system, Curran said, "the audience of the Field stations is reduced, and this, too, will have an adverse effect upon the station's income. The cumulative effect on income will reduce the stations' ability to produce programing of their own . . ."