

## Washington Watch

**'Holocaust' in court.** Three-judge panel of U.S. Court of Appeals in Washington heard argument on appeal of member of German-American group who contends that NBC's 1978 mini-series, "Holocaust," raised fairness doctrine issue. Friederich P. Berg, corresponding secretary of The Ridgewood Group, based in Ridgewood, N.Y., contends principally that question of whether mass murder of millions of Jews by Germans during World War II actually occurred is controversial issue of public importance. Mark M. Rhodes, Berg's counsel, said in oral argument that FCC's rejection of fairness complaint action was arbitrary and capricious. However, when Chief Judge Spottswood Robinson III asked for reference to passage in record of proceeding showing that question of whether holocaust occurred is matter of vigorous debate in country—one basis for determining whether issue triggered fairness doctrine—Rhodes referred only to substantial viewer reaction to program. NBC's attorney, John Sturm, said "impact" of program "has never been part of the fairness doctrine. It would put an incredible burden on the licensee if it were."

□

**NAB backs MPAA.** National Association of Broadcasters has urged Copyright Royalty Tribunal to set interim rates for cable carriage of distant signals. Although National Cable Television Association has insisted CRT has no authority to set interim rates (BROADCASTING, Oct. 5), NAB joins Motion Picture Association of America in insisting that until FCC's repeal of syndicated exclusivity and distant-carriage rules has been "litigated fully" CRT must institute interim cable royalty rate adjustment. In comments, NAB said cable systems have "significantly increased" importation of distant signals since June, when court of appeals lifted stay on FCC's repeal of distant-signal and syndicated exclusivity rules.

□

**Drop-in data request.** FCC reversed staff action granting access to confidential information of wrvk(tv) Knoxville, Tenn. Wrvk had petitioned against FCC's four-city VHF drop-in decision, claiming new station would cause economic hardship. Knoxville Broadcasting Corp., applicant for VHF drop-in at Knoxville, filed Freedom of Information Act request seeking 1960-79 financial records of wrvk to rebut latter's claims. Broadcast Bureau granted request, finding it justified because wrvk had placed financial arguments as issue in proceeding. Wrvk appealed, saying financial conditions are not of concern at reconsideration stage of proceeding. Although FCC agreed with bureau's decision, it said it was unclear whether wrvk's finances are factor in VHF drop-in case and since wrvk appears to be giving up adverse economic impact argument, there is no longer need to grant access to confidential files.

□

**Not dead, yet.** Federal Trade Commission has ruled that Kroger Co., one of nation's largest retail food companies, used deceptive ads in "Price Patrol" campaign it ran from 1972 to 1978. Campaign featured housewives surveying prices for selected products sold by Kroger stores and local competitors, with ads showing Kroger's prices mostly lower. Nonetheless, commission found Kroger failed to "disclose adequately" that certain categories of foods were excluded from surveys and failed to insure that persons who selected surveyed products weren't biased. As result, commission said Price Patrol surveys weren't "methodologically sound and thus did not prove that shoppers would save overall." Under FTC order, Kroger can't generalize results of surveys in ads unless survey is conducted in "competent and reliable manner" and ad "fairly and impartially presents conclusions that can be drawn from the survey." Under order, surveyed items must be selected randomly or by using representative sample; employees responsible for pricing Kroger's products aren't allowed to know which items have been selected for survey before its completion.

plans for the agency.

Miller reiterated that he would place a "special emphasis" on trying to see that "regulatory and government barriers" didn't stand in the way of the workings of a competitive marketplace.

And Miller again stated that he hoped the FTC would develop a "significantly less adversarial relationship with industry" under his chairmanship.

Miller, whose confirmation was put on hold by Senator Slade Gorton (R-Wash.) (BROADCASTING, Aug. 3)—who expressed concern about Miller's intentions for FTC antitrust enforcement—said that "dual enforcement" of antitrust laws (the Department of Justice and the FTC share antitrust enforcement) was the law of the land and would remain so unless Congress changed it.

Miller also said what effect any further cuts of the FTC's budget (President Reagan has announced his desire to cut agencies' budgets another 12%) would have on the FTC's regional offices remains to be seen.

The FTC transition team Miller headed recommended phasing out the regional offices (BROADCASTING, Feb. 9).

An FTC spokesman said Miller, who planned to spend much of the rest of his first week in office discussing FTC policy with his chief staffers, would have more to say on his plans at a press conference scheduled for Oct. 23 and a speech slated to be delivered before the American Association of Advertising Agencies at the end of the month.

## NBC before high court in movie case

**Victim in 'Scottsboro Boys' case surfaces 40 years later to sue NBC over 1976 movie which, she claims, libeled her**

The U.S. Supreme Court has agreed to review a case in which the chief witness in the celebrated "Scottsboro Boys" trials of the 1930's is suing NBC for \$6 million for libel. At issue is whether Victoria Price Street was a "public figure" 40 years after those trials ended.

Street was one of two women whom nine blacks were accused of raping on a freight train traveling from Tennessee to Alabama. The death sentences of the young men attracted international attention, but were later overturned by the Supreme Court.

NBC's "Judge Horton and the Scottsboro Boys," televised on April 22, 1976, and again on Jan. 3, 1977, dramatized the event in a manner Street claims libels her. She is referred to as a "whore" and a "perjurer."

NBC claimed that Street had not demonstrated that "malice" was involved and that, since she was a public figure, the case must be dismissed. Under Supreme Court rulings, a public figure seeking to sue for libel must prove malice.

The trial court disagreed with the argu-

# True & Solid ROCK.

WE'VE GOT THE WINNER!



More Music Programming

OUR COUNTRY AND MOR ARE WINNERS, TOO!

Quality Automated Radio

Formats Since 1974

Los Angeles

(213) 681-0144