

sion found that Satellite Broadcast Network's (SBN) selling of NBC affiliate WXIA-TV Atlanta as a superstation, or "distant signal," was a copyright infringement. "We have been in serious discussions with SBN on how to settle" the ramifications of that decision, he said.

An ABC spokesman declining to be identified described the legislation as "representing a compromise we can live with [and that] solves a white area problem for which we have sought a solution for a long time."

Passage of H.R. 2848 could mean that TVRO subscriptions to three of SBN's 'Primetime 24' superstations will expand on the edges, said SBN President Kazie Metzger. There has been no court injunction limiting SBN's activity during litigation, but, said Metzger, some TVRO program retailers have been reluctant to sell year-long subscriptions in advance while there is any doubt about the continued availability of SBN's network superstations WXIA-TV, WABC-TV New York (an ABC O&O) and WBBM-TV Chicago (a CBS O&O).

Now SBN, which intended to appeal the Atlanta decision if the bill had not passed, said Metzger, is "in active discussions with several" retailers that had indicated a desire to include Primetime 24 services in their TVRO packages once H.R. 2848 passed. Primetime 24 is included in HBO's and the National Rural Telecommunications Cooperative's TVRO program packages. The bill "takes away the cloud," she said. "It's different when you're not being sued."

TVRO program retailer, Netlink, has "had several phone calls since passage" of the bill, said its president, Brian McCauley. Unlike SBN, which is primarily a wholesaler, he said, Netlink is primarily a retailer, and the receptiveness of other retailers is therefore less crucial to Netlink business. Home dish owners generally look at all the distributors' offerings, he said, so it is not necessary to saturate all the distributors' packages to assure the sale of Netlink's network superstations, KUSA-TV (ABC), KCNC-TV (NBC), KMGH-TV (CBS) and non-commercial KRMA-TV (PBS), all licensed in Denver. "We are both retailer and wholesaler," said SBN executive vice president, Ann Kirschner. "But it is important to us to seek the widest distribution through all responsible sources of programming packages."

Expecting no "big impact businesswise," McCauley noted, however, that the bill "clears up the legality and how you pay copyright." Beginning 90 days after the President signs H.R. 2848 into law—within 10 days after delivery to the White House last week—superstation providers will submit to the Register of Copyrights a fee computed by multiplying the number of subscribers to "secondary transmission of a superstation" by 12 cents per month, or by multiplying the number of subscribers to "each secondary transmission of a network station" by three cents per month. Those rates will be effective through Dec. 31, 1992. The involved parties may negotiate or arbitrate a different fee before, and must negotiate or arbitrate a fee by, that date.

The copyright fee elements of the bill will also have an impact on sellers of non-network superstations. Having a set fee

"helps us with our planning," said Gil Korta, national marketing director, Eastern Microwave, which uplinks two nonnetwork superstations, WSBK-TV Boston and WGN-TV Chicago.

H.R. 2848 "offers the opportunity from a legal perspective to launch new network signals," Korta said. But "from a practical standpoint," based on "a great deal of research" conducted by EM before it began uplinking the Boston station and KTLA(TV) Los Angeles (BROADCASTING, Feb. 15), "there are probably not any solid opportunities for new superstations." (Tulsa-based United Video now uplinks the latter station.) The bill also clears the way for scrambling of network signals, said Franks, something that the network affiliates and the superstation sellers both need for the elimination of feeds "in the clear," and the resulting control of distribution. Indeed, Boucher—who hosted network-SBN negotiations this fall—said that due to the absence of legislative sanction of network superstations and "the imminent scrambling of network signals, [TVRO] homes were in danger of being shut out." In a statement released after the bill's passage, Boucher praised SBN, ABC, CBS, NBC and their affiliates. "Every group, from the TVRO consumers to the cable and motion picture industries made concessions in the interest of good public policy."

H.R. 2848 also allows attorneys for superstation sellers wider opportunities to go after video signal pirates in court, said McCauley, while raising the fines and jail

sentences for making, selling or using altered signal descramblers. These elements of the bill, said home dish programming providers, will protect the development of the home dish, or television receive-only (TVRO) market.

"The bill is tremendous" in giving the industry more firepower to fight signal theft, said McCauley, who this month was elected chairman of the Satellite Broadcasting and Communications Association's Antipiracy Task Force. With U.S. attorneys dealing with "higher priority crimes" in jurisdictions everywhere, he said, it has been difficult to get signal theft prosecutions going. "Netlink, if it wanted to now," under the new legislation, he said, "can go right out and prosecute. That's going to have a tremendous effect on piracy."

H.R. 2848 directs the FCC to study the need to set an industry satellite transmission encryption standard, but McCauley said "there is no need" for regulation in that area. Although he is "reserving final judgment" on General Instrument's proposed new hardware, Videocipher-II-Plus, due out next June (BROADCASTING, Sept. 12), "if VC-II-Plus doesn't work, program distributors will go to other vendors" for a workable solution. In the meantime, the FCC and the FBI, with help from the Motion Picture Association of America, which has "been through this ground for a long time," are working to deter signal theft. The task force will meet, at least via telephone conference, every two weeks, he said. "It is our top priority." □

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and

**KEND-AM and KLLL-FM, Lubbock, Texas**

from

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