Chapter 24
Madison, Wisconsin

Society of Broadcast Engineers *May 1998*

NEW CLASS OF TV STATION

By Tom Smith

First it was low-power TV, then the FCC asked about starting a low-power FM service, and now the FCC wants comment on a new class of TV. In response to a petition by the Community Broadcasters Association, the FCC is asking for comments on the creation of a new class of TV station. The Community Broadcasters Association (CBA) is a group that represents the interest of low-power TV stations (LPTV).

The CBA proposes that the FCC create a class of stations covered under part 73 of the rules. These stations would receive primary status, which means that they could not be forced off the air by a new full-power station. Currently, LPTV stations are covered under part 74 of the rules and have secondary status. This means that they could be forced to go off the air, if a full-power station was to start operations on their channel and the LPTV station could not find another channel. The CBA is concerned about the survival of many of their member stations because of the start of DTV and it's need for more channels for full power TV. The CBA filed the original petition for rule making on September 30, 1997 and filed an amended petition on March 18, 1998. The FCC has opened a comment period on April 21, 1998 that will close on May 22, 1998 with replies due on June 8, 1998. The docket number is RM-9260 and the notice is available on the FCC web site as www.fcc.gov/Bureaus/Mass Media/Filings/rm9260.pdf. The press release and a link to the petition is at www.fcc.gov/mmb/.

The petition is very short; mainly the petition stated that many LPTV stations may be displaced by DTV stations and is asking that remedial action be taken for LPTV stations. The appendix that is attached to the petition is a draft of new sections of the rules for the FCC to approve. Proposed rules would have analog power limits of 10 kw for channels 2-6, 31.6 kw for channels 7-13 and 500 kw for channels 14 and up. Digital power would follow sections 73.622 (e)(4),(5),(6) of the FCC rules. The required field strength levels over the principal city that the

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Next Meeting:

**Tuesday,
May 5, 1998**

Due to an unavoidable late change , please see the Chapter 24 World Wide Web site for this month's meeting location, time, and program topic.

http://www.sbe24.org

In This Issue:

TELECOM INDUSTRY NEWS

By Neal McLain

TBS SUPERSTATION CONVERTS TO NON-BROADCAST STATUS

Quick! Here's a quiz:

• What channel does WGN broadcast on in Chicago?

• What channel does TBS broadcast on in Atlanta?

• What channel does TNT broadcast on in Atlanta?

Well, you probably got the first question right: WGN-TV broadcasts on Channel 9.

But Atlanta? Give up? OK, here are the answers:

• WTBS broadcasts on Channel 17 in the Atlanta market. But you'd never know it from watching their signal via cable or satellite because WTBS aims its programming at the nationwide audience, not the Atlanta home audience. They even provide two separate program feeds, one for the national audience (without call sign) and one for the local audience (with call sign).

• TNT is a non-broadcast service distributed exclusively by satellite; it is not broadcast in Atlanta or anywhere else.

The last question was, of course, a trick question designed to underscore the difference between the two types of video programming services carried by cable television systems: broadcast and non-broadcast. WTBS ("TBS Superstation") is a commercial television broadcast station which is "secondarily transmitted" by satellite; TNT is a non-broadcast programming service which is distributed to cable

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April Business Meeting Minutes

Chapter 24 of the Society of Broadcast Engineers met on Thursday, April 16, 1998, at the offices of the Wisconsin Educational Communications Board in Madison, Wisconsin. There were 20 persons in attendance, including 19 members (16 certified) and one guest. The meeting was chaired by Chapter 24 Chair Fred Sperry.

Call to order: 7:03 pm. On unanimous voice vote, the minutes of the March meeting were approved as published in the April Newsletter.

Newsletter Editor's Report (reported by Newsletter Editor Mike Norton): The deadline for the May Newsletter is midnight 4/24/98; the folding party is 5:30 pm 4/29/98 at WKOW-TV.

Treasurer's Report (reported by Chapter Treasurer Stan Scharch): the chapter balance is in the black.

Membership Report: no report.

Sustaining Membership Report (reported by Fred Sperry): National Tower Service has joined as a new Sustaining Member; Louth Automation has renewed. The Chapter now has 27 sustaining members.

Program Committee: The May meeting will be a tour through an Ameritech central office.

Certification and Education (reported by Jim Hermanson): The next examination period is June 12-22; application deadline is April 24th.

Frequency Coordination Report: no report.

National Liaison Report (reported by Leonard Charles): (1) Reminder: membership renewals, still $55.00 per year, were due April 1. (2) Seats are still available for the Leadership Skills Seminar. (3) The national office is seeking nominations for National Awards.

Old Business: (1) Sperry reported on progress toward changing the chapter's legal status to a non-profit Wisconsin corporation. (2) Tom Weeden reported on the status of his efforts to contact local hospitals regarding possible DTV interference to medical monitoring equipment.

New Business: (1) Don Borchert requested the assistance of the chapter members in suggesting speakers and exhibitors for the 1998 Broadcasters' Clinic. (2) Steve Zimmerman announced that a demonstration of the MPEG Grand Alliance video compression system will take place in late April.

The formal meeting was adjourned at 7:24 pm.

Elections were held for the following Chapter officers: Chair; Vice Chair; Secretary; Treasurer. Nominations committee representative Steve Paugh stated that the ballots would be counted on April 22, 1998.

The program consisted of a discussion of the recent NAB convention. Several members who had attended the convention reported.

Submitted by Neal McLain, Secretary

New Class of TV Station
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new stations will serve are listed in the appendix as well as interference levels to and from other stations.

Stations would have to file an application on Form 301 as full power stations do, and pay the same application fees as full power stations. Stations would also file the same ownership reports and meet other requirements as full power stations. Stations would be required to produce 3 hours of local programming a week and meet the same hours of operation as full power stations.

The CBA proposes that the new Class A stations would also be able to file for a second channel for DTV, either by finding a new allotment or applying for an unused allotment from a full power station. They could also convert their NTSC channel to DTV if they do not want or cannot find another channel.

The petition only discusses the upgrading of existing LPTV stations to Class A status, there is not any proposal in the petition for new applicants for Class A stations.

(From FCC Web Site)

SBE CHAPTER OF THE AIR: HamNet meets the second Sunday of each month at 0000 GMT on 14.205 MHz. Hal Hostetler WA7BGX is the Control Station.

AMATEUR RADIO NEWS

By Tom Weeden, WJ9H

The Wireless Privacy Enhancement Act of 1998 has passed in the US House and awaits action in the Senate. The Act, HR.2369, originally provoked an outcry from amateur radio operators, scanner listeners, the volunteer fire community, and others due to its proposed restrictions on listening to radio communications. In the days before the bill went to the floor, various organizations worked with the House Telecommunications Subcommittee staff to craft a committee report to put potential fears to rest. The House voted on the bill and the report as a single package. The report said, in part, that the Committee did not intend for the bill "to be interpreted in a manner that would permit the Commission to take actions against an amateur operator who is operating within the terms of his or her license." There is no word on what the Senate plans to do with the legislation.

Late word from NASA is that the Shuttle Amateur Radio Experiment (SAREX) will be on board space shuttle mission STS-95. It is the shuttle flight that will carry US Senator and astronaut John Glenn into space this October. Two astronaut-hams will be on board as well. Glenn has already begun his astronaut training, but it's unknown if he plans on getting his amateur radio license before he returns to space.

The FCC's Amateur Radio computer system went down February 10, and no paper or electronic applications were processed for nearly 11 days as FCC personnel in Gettysburg attempted to troubleshoot the problem. The computer came back on line February 21, and staff soon processed the application backlog. The FCC offered no explanation for the outage, its longest ever, but did apologize to volunteer exam coordinators for the inconvenience.

(Excerpts from May 1998 "QST" Magazine)

Chapter 24 Election Results

Submitted by Steve Paugh, Elections Chair

The Chapter 24 election ballots were certified and counted on April 24th. There are 72 voting members in Chapter 24. We received 20 ballots and all ballots were certified as valid. Nineteen ballots were collected at the April 16th chapter meeting and one ballot was received by mail prior to the chapter meeting.

Congratulations to our newly elected officers.

- Chairperson- Fred Sperry
- Vice Chair- Kevin Ruppert
- Secretary- Lloyd Berg
- Treasurer- Stan Scharch

The nomination committee members were Steve Paugh, Jim Hermanson and Denise Maney.

Telecom Industry News (continued)

systems by satellite.

And that brings us to the topic of this article: TBS's owner, the Turner Broadcasting Division of Time Warner Entertainment, is about to convert TBS into a non-broadcast programming service instead of a superstation.

To the average cable viewer, that probably won't make much difference. But it's a profound change for cable operators: different FCC rules will apply and a different copyright structure will apply.

To understand the significance of these changes, it's necessary to understand the history of how the FCC and copyright rules came about. So here's a history lesson:

FCC RULES

In the early days of the cable television industry (before communications satellites existed) cable systems carried programming from two sources: "local origination" and broadcast stations. Local-origination programming was non-broadcast programming produced either by the cable operator or by local "access" organizations. Broadcast stations fell into two loosely-defined categories: "local" stations, which potential subscribers could receive off-the-air, and "distant" stations which the average viewer couldn't receive without an elaborate antenna.

Distant broadcast stations which didn't duplicate local stations were the cable operator's bread and butter. Cable operators usually carried local stations in an effort to offer a complete lineup, but this didn't sell cable subscriptions. Only distant broadcast stations which subscribers couldn't receive off-the-air – particularly commercial independents like WGN-TV – would induce subscribers to sign up for cable.

Cable operators went to great lengths to "import" distant stations. Tall towers, some exceeding 1000 feet, were erected just to support receiving antennas. Many cable operators constructed microwave links to import distant stations. Some cable operators even constructed antenna sites on mountaintops so remote that they couldn't be reached except by helicopter.

A number of commercial microwave companies sprang up to serve the market for distant signals. Here in Wisconsin, Midwestern Relay Company carried WGN-TV (Chicago) and WVTV (Milwaukee) to cable systems throughout Wisconsin and parts of Minnesota.

Many broadcasters didn't like this. A broadcaster in a small television market who suddenly discovered that many of his viewers had switched to a distant independent was understandably upset. Several broadcasters complained to the FCC or to Congress, and a few even sued.

Congress didn't act, and the courts tended to take a hands-off attitude, but eventually the FCC stepped in. In an attempt to balance the interests of the broadcasters with the interests of the cable operators, the FCC set up an elaborate set of "signal carriage rules." Among other things, these rules formally defined "local" and "distant" commercial broadcast stations:

• "Local" was defined according to a formula based on the distance between the cable system and a specified "reference point" in the station's city of license. Under this formula, all commercial stations in a given market were "local" with respect to a given cable system if any part of the cable system was within 35 miles of the reference point. This definition had nothing to do with the location of the station's transmitter or its Grade B contour. Moreover, this definition had nothing to do with the size or shape of the station's market area as defined by Arbitron or Nielsen. Only the distance from the reference point to the nearest edge of the cable system mattered.

• "Distant" was defined as any other station. It was quite possible for a station to be "distant" with respect to a given cable system even though the cable system fell inside the station's Arbitron ADI or Nielsen DMA. [1]

Under these rules, cable systems were required to carry every local station at the request of the station licensee. This rule came to be known as the "must-carry" rule.

These rules also limited the number of distant independent commercial broadcast stations which cable systems could import. These limits were based on the size of the television market *into which* the signals were imported:

• Top 50 markets: three distant independents.

• Next 50 markets: two distant independents.

• Below top-100 markets: one distant independent.

• Outside of all television markets: no limit.

The market rankings which existed on the effective date of the rules (1972) were frozen for all time. Thus, for the purpose of the signal carriage rules, the Madison market was frozen at 93, permanently limiting the number of distant independents imported into Madison to two. Even though Madison is now below the top 100 markets, it remains the 93rd market in the signal-carriage rules.

The FCC rules also imposed a number of "manner of carriage" rules. The most significant of these rules requires that the cable system carry every broadcast signal complete and intact. This rule specifically prohibits the cable operator from inserting local commercials in place of the station's commercials. In short, "local avails" aren't available in broadcast signals.

The rules contained numerous exceptions and limitations:

• Non-commercial educational stations were entitled to must-carry status within their Grade B contours.

• Cable systems located in so-called "hyphenated markets" were required to carry every station licensed to any

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community in the market. Example: the cities of Paducah, KY; Cape Girardeau, MO; and Harrisburg, IL constitute the "Paducah-Cape Girardeau-Harrisburg" hyphenated market. For the purpose of the must-carry rule, any cable system located "in whole or in part" within any of the three overlapping 35-mile circles was required to carry every station licensed to any of the three cities.

• "Specialty" distant stations (religious, foreign language, "automated programming") did not count against a cable system's quota of distant signals.

• If all local stations in a market signed off during overnight hours, the cable system could import an unlimited number of distant stations during those hours.

• If a distant station could prove, through viewer surveys in non-cable homes, that it was "significantly viewed" in any community in a county, it could claim "local" (and hence, must-carry) status throughout the county.

• Local stations were granted "syndicated exclusivity" rights. Under this rule, if a distant station carried a syndicated program which a local station also carried, the local station had priority, and could force the cable system to block the distant signal for the duration of the program.

• Cable systems having fewer than 1000 subscribers were exempted from most of these requirements.

These rules remained in force until 1981, when the FCC removed the limitation on distant signals. From that point forward, any cable system could carry an unlimited number of distant stations, including distant commercial independents. However, the "must-carry" and "manner of carriage" rules (including the prohibition against commercial insertion) remained intact. [2]

COPYRIGHT

Meanwhile, another issue was brewing: copyright. Over the years, a number of broadcast stations and program suppliers had attempted to impose copyright liability on cable systems on grounds that they were carrying ("performing") their copyrighted works without permission. Some had sued; however, the courts were divided on the issue because the then-current (1909) copyright law did not address it.

This issue eventually made its way to the United States Supreme Court. The Court ruled in favor of the cable television operator, but even that didn't end the issue. The Court's decision essentially bounced the issue back to Congress (see Sidebar, this page).

At the behest of broadcasters and program producers – as well as the cable industry, which wanted to get the issue resolved once and for all – Congress eventually revised the copyright law. The revised law, the Copyright Act of 1976, created a legal construct known as the "compulsory license." The compulsory license did two things:

• It guaranteed that cable systems had the right to "secondarily transmit" broadcast stations without having to obtain copyright clearance from the individual stations or from any program supplier.

• It established a system for collecting royalties from cable operators

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THE FORTNIGHTLY CASE

In the early years of the cable television industry, a number of broadcast stations and program suppliers had attempted to impose copyright liability on cable systems on grounds that they were carrying ("performing") their copyrighted works without permission. Some had attempted to enforce the issue in court; however, the courts were divided because the then-current law – the Copyright Act of 1909 – did not address the issue.

This issue made its way to the United States Supreme Court in 1968. In the case at hand, United Artists Television, as owner of the copyright on several motion pictures, had sued Fortnightly Corporation, a cable television operator, alleging that Fortnightly had "performed" several of United Artists' motion pictures without permission.

United Artists won the first round in District Court. Fortnightly appealed; United Artists won again in the Court of Appeals. Finally, Fortnightly appealed to the Supreme Court; in a divided opinion, the Supreme Court reversed the Court of Appeals and ruled for Fortnightly.

But the Court made it clear that is was not ruling on the merits of the case. Instead, it was merely refusing to write new laws. Justice Potter Stewart delivered the opinion of the Court as follows:

"We have been invited ... to render a compromise decision in this case that would, it is said, accommodate various competing considerations of copyright, communications, and antitrust policy. We decline the invitation. That job is for Congress.

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FORTNIGHTLY CASE (cont.)

We take the Copyright Act of 1909 as we find it. With due regard to changing technology, we hold that the petitioner did not under that law `perform' the respondent's copyrighted works. The judgment of the Court of Appeals is reversed."

The Court's decision was far from unanimous: five Justices voted for reversal, three abstained, and one dissented. The lone dissenter, Justice Abe Fortas, noted that the Court was not only reversing two lower courts; it was also reversing a precedent which it itself had set 40 years earlier in the case of a hotel which distributed radio signals by wire to its guests:

"... the Court, speaking unanimously through Mr. Justice Brandeis, held that a hotel which received a broadcast on a master radio set and piped the broadcast to all public and private rooms of the hotel had 'performed' the material that had been broadcast. As I understand the case, the holding was that the use of mechanical equipment to extend a broadcast to a significantly wider public than the broadcast would otherwise enjoy constitutes a 'performance' of the material originally broadcast. I believe this decision stands squarely in the path of the route which the majority today traverses. If a CATV system performs a function 'little different from that served by the equipment generally furnished by a television viewer,' and if that is to be the test, then it seems to me that a master radio set attached by wire to numerous other sets in various rooms of a hotel cannot be distinguished."

Source: Fortnightly Corp. v. United Artists, 392 U.S. 390 (1968). The complete text of this decision can be found at http://caselaw.findlaw.com/cgi-bin/getcase.pl?court=US&vol=392&invol=390.

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and disbursing them to "claimants" – the various broadcast stations, broadcast networks, program producers, sports interests, and others who claimed a piece of the pie. [3]

Two government agencies were charged with the responsibility for collecting and disbursing royalties:

• The Copyright Office, a unit of the Library of Congress, was assigned the job of collecting the royalty fees and depositing them into a trust fund in the United States Treasury.

• An independent federal agency known as the Copyright Royalty Tribunal (CRT) received two assignments: establishing the fee schedule and allocating the proceeds among the claimants.

This procedure paralleled a similar procedure already in place for juke boxes: for years, the Copyright Office had collected royalties from juke box owners and the CRT had determined how these funds were to be disbursed.

This procedure worked reasonably well, although the CRT has had more than its share of political trouble. A few years ago, it received Senator Proxmire's Golden Fleece Award in recognition of the amount of money it had spent on plants for its offices. More recently, it was abolished altogether as part of the Clinton Administration's Reinventing Government effort, and replaced by new entity known as the Copyright Arbitration Royalty Panel (CARP). Presumably, this change will save some tax dollars because the members of CARP are volunteer citizens rather than federal employees.

In spite of its political problems, the CRT did manage to establish a royalty fee schedule for cable television systems. The fee for each distant independent station is a percentage of the revenue received for the entire tier of programming on which the station is carried. The percentage varies according to a complicated formula based on three factors: the price the cable operator charges for the tier; the number of subscribers who receive the tier, and the system's gross receipts.

For "large" systems (annual gross receipts exceeding $600,000), the fee for distant independent stations was tied to the old FCC signal-carriage rules:

• The fee for stations which would have been permitted under the former FCC rules was set according to a sliding scale: 0.893% for the first station and 0.563% for each additional station up to four.

• The fee for additional stations above and beyond the old FCC limit was set at 3.75%.

This means, of course, that cable systems in small markets incur higher royalty fees than systems in large markets. To illustrate this, let's take an example: a cable system which carries three distant independents on the basic tier, and charges $15.00 per month for that tier.

• If this system is located in the Milwaukee area (23rd market), it would have been permitted to carry three distant independents under the old FCC rules. Its royalty fee, per subscriber per month, would be:

Station 1 $15.00 * 0.00893 = 0.1340
Station 2 $15.00 * 0.00563 = 0.0844
Station 3 $15.00 * 0.00563 = 0.0844
=========

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0.3029

• If this system is located in the Madison area (93rd market), it would have been permitted to carry only two distant independents under the old FCC rules. Its royalty fee, per subscriber per month, would be:

Station 1 $15.00 * 0.00893 = 0.1340
Station 2 $15.00 * 0.00563 = 0.0844
Station 3 $15.00 * 0.03750 = 0.5625
=========
0.7809

Few cable operators would agree to pay 56 cents per subscriber per month for a distant independent station. This rule effectively reinstated the old FCC signal-carriage rules for distant independent stations.

SATELLITE INTERCONNECTION

By the early 70s, some cable systems were beginning to interconnect their local origination programming. In the eyes of the FCC, as long as it wasn't a broadcast station, it was still "local origination" even if it was imported by microwave from another cable system many miles a way.

One of the earliest programmers to use microwave in this fashion was Time, Inc., which owned several cable systems and also owned a fledgling pay-TV service known as Home Box Office. Time distributed HBO by microwave to cable systems throughout the northeast.

In 1975, Time made a dramatic announcement: it was going to distribute HBO by communications satellite and make it available to cable systems nationwide.

This announcement took the cable industry by storm. Suddenly, here was programming for which a cable operator could impose a separate monthly charge. Moreover, because it was still technically "local origination," the operator didn't have to worry about FCC or copyright issues: the FCC didn't have authority to regulate non-broadcast programming, and HBO took care of all copyright clearances.

Within a year or so, two other companies announced plans to distribute broadcast stations to cable systems via satellite:

• Ted Turner, owner of a number of Atlanta business ventures (outdoor advertising; Atlanta Braves) announced that he planned to distribute the signal of his independent UHF station WTCG (as in Turner Communications Group) by satellite. Since WTCG was an independent station, it would count as a distant independent station for cable systems outside of the Atlanta area.

• Pat Robertson, of Christian Broadcasting Network, announced that he planned to distribute one of the CBN-affiliated stations by satellite. This was to have been a distant independent station; however, as a religious station, it would not have counted against a cable system's distant-signal quota.

Note that both of these proposed signals were broadcast stations. Such was the mindset of the day: in the minds of programmers like Turner and Robertson, cable systems carried broadcast stations; therefore, a new program service had to be a broadcast station.

In the view of cable operators, this wasn't necessarily the case. Cable operators preferred local origination programming: non-broadcast programming that was exempt from any sort of FCC or copyright regulation. Realizing this, Robertson quickly abandoned his plans to relay a CBN affiliate, and announced that CBN would provide a non-broadcast network feed instead.

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THE WTBS CALL LETTER STORY

Before Turner Broadcasting acquired it, the call sign WTBS had been assigned to an FM radio station at Massachusetts Institute of Technology, in Cambridge, Massachusetts. John Fix 3rd, an MIT student at the time, describes how Turner obtained the call sign:

"In the fall of 1978, I was an undergraduate at MIT, spending most of my time at WTBS the MIT FM radio station. The program director (Bob Connolly) and I received a call one day from someone claiming to be Ted Turner. He said he was interested in getting the call letters WTBS for his new "Superstation" WTCG in Atlanta. He offered to fly us down to ride his yacht (he was big in the America's Cup back then) or see a Braves game.

"Anyway, after consultation with MIT big-wigs, station folks, lawyers, and the FCC, we decided to let him have the call letters in exchange for a $50,000 donation to the station. He gave us $25,000 on the date we released the letters, and $25,000 more when the FCC granted his application to obtain them. There was a chance that between the time we released them and he applied, someone else could have grabbed them... hence the split payment."

Reprinted by permission of John Fix 3rd.

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Turner, on the other hand, wasn't able to make this change: he couldn't offer WTCG as a non-broadcast service because he needed the revenue the station earned in the Atlanta market. So WTCG remained a broadcast station.

Both of these services were quickly accepted by cable operators. These services offered cable operators something not available from any other source: basic-tier programming aimed at a national audience. And, most significantly, both services were "syndex-proof": they did not carry programming which would be subject to the syndicated-exclusivity rule.

These services proved to be popular with subscribers, and both have grown rapidly in the years since. WTCG changed its call sign to WTBS (as in Turner Broadcasting System), and now calls itself "TBS Superstation" (see Sidebar, page 7). CBN starting calling itself CBN Family Channel, and then became The Family Channel.

WTCG/WTBS proved to be so popular that many cable operators even bumped other distant independent stations to make room for it within their distant-signal quotas. Complete Channel TV (forerunner to today's TCI here in Madison) provides a case in point:

• 1973: CCTV began operations carrying two distant independents: WVTV (Milwaukee) and WGN-TV (Chicago).

• 1978: CCTV dropped WVTV so it could add WTCG/WTBS without exceeding its two-distant-signal quota.

• 1981: The FCC repealed the distant-signal limitation rule; CCTV added WVTV, bringing the total number of distant independents to three.

• 1983: The CRT announced the new copyright fees; CCTV dropped WVTV again.

SUPERSTATIONS

When HBO and CBN decided to transmit their signals by satellite to cable systems, they simply proceeded to do so. Because the signals were non-broadcast, FCC permission was not required.

But for Ted Turner, it was a different matter: he wanted to re-transmit the signal of an FCC-licensed broadcast station. When he approached the FCC for permission, the Commission became concerned about the "market dominance" which might result if a broadcast licensee could retransmit its own signal by satellite. The FCC resolved the issue by establishing several rules which remain in force to this day:

• A broadcast station licensee cannot retransmit its own signal by satellite.

• An officially-designated satellite common carrier can retransmit the signal of any broadcast station, even without the permission of the station licensee, and it can sell that signal to cable television operators.

• The station can receive no direct financial compensation for its signal, either from the carrier or from the cable systems which carry it. Of course, the station still benefits in two ways: a larger audience for its advertising and possibly a larger piece of the copyright royalty pie.

• Manner-of-carriage rules applicable to distant broadcast stations still apply to satellite-delivered signals, including the prohibition against commercial insertions.

At Turner's suggestion, Southern Satellite Systems applied for, and received, FCC permission to retransmit WTCG. Southern Satellite charged cable operators a "carriage fee" of about $0.10 per subscriber per month.

Turner promptly launched an extensive advertising campaign to market WTCG to the cable industry. He announced to the world that WTCG was "The Superstation," and he even tried to trademark the word "superstation."

It wasn't long before other common-carrier companies noticed Southern Satellite's success with WTCG. Suddenly, common carriers everywhere began applying for permission to retransmit broadcast stations. No fewer than four carriers – including Midwestern Relay Company – applied for permission to retransmit WGN-TV. The FCC approved all four applications, apparently figuring that the marketplace would sort things out. Indeed it did: only United Video successfully launched, and it still carries WGN-TV today.

In the process, the word "superstation" quickly became a generic term, Turner's claim notwithstanding.

Not all broadcasters were as enthusiastic about suddenly becoming superstations as Turner had been. WGN-TV cooperated with United Video, and even sent personnel to cable-programming trade shows, but it didn't make much of an effort to market itself to cable operators. KTVU, San Francisco, did everything it could to avoid becoming a superstation: it sued the carrier that retransmitted it, and it even refused to mail program schedules outside its home viewing area.

NON-BROADCAST SERVICES

Meanwhile, other program suppliers figured out that CBN was onto something: there was a market for non-broadcast satellite-delivered programming intended for cable systems. Furthermore, the FCC's prohibition against direct financial compensation didn't apply: a non-broadcast program supplier could impose a monthly "license" fee on cable systems which carry its programming. And, of course, it could also sell advertising. Suddenly, it was possible for television program suppliers to mimic the "dual revenue stream" financial model that newspapers and magazines had enjoyed for years.

Southern Satellite Systems was the first to launch a 24-hour advertising-supported cable channel: Satellite Programming Network. SPN carried a strange variety of inexpensive programming: primitive infomercials,

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Telecom Industry News (conclusion)

old movies, Australian soccer games, mountain climbing. But many cable operators picked it up anyway: it filled another channel.

Other program producers soon followed. By 1979, USA Network, C-SPAN (sharing transponder time with USA), ESPN, and Nickelodeon had joined SPN on the satellite. A year later, Turner joined in with the launch of CNN, the first in a string of non-broadcast services that now includes Cartoon Network, CNNSi, CNNfn, Headline News, TCM, and TNT.

Of course, not all of them survived. SPN morphed into CNBC. Others flashed across the horizon and disappeared: HTN (Home Theater Network); MSN (Modern Satellite Network); Cinemerica; Reuters NEWSVIEW.

But the basic financial model worked: operating a non-broadcast advertising-supported satellite-delivered programming service proved to be a viable business. These services now make up the bulk of the programming offered by cable television systems on their basic and extended-basic tiers.

Most ad-supported services charge license fees of around $0.25 to $0.50 per subscriber per month, although there are wide variations. The most expensive is ESPN, which presently charges somewhere between $0.65 to $1.00 (larger systems get volume discounts); this fee is about to go up another 20% in the wake of ESPN's recent agreement with the NFL. At the other end of the scale, most religious services are free. Home shopping channels even pay a sales commission.

Whatever the fee, it covers everything: programming, copyright clearances, and satellite transmission.

Most non-broadcast ad-supported services also offer advertising slots ("avails") so cable operators can insert local commercials. Many large cable systems take advantage of this arrangement. However, small systems generally don't because the cost of operating an advertising sales operation exceeds the potential advertising revenue.

BACK TO 1998

End of history lesson. We're now back in 1998 and considering Turner's plan to convert TBS Superstation into a non-broadcast service. The reason is obvious: Turner wants that dual revenue stream. The potential revenue he can get from license fees assessed directly to cable operators now exceeds the revenue he gets from the Atlanta UHF station.

Cable operators have mixed feelings about this, and many have voiced opposition. The main objection is cost: for most cable operators, the proposed license fee exceeds the combined cost of the copyright royalty fee and the satellite carriage fee they presently pay.

Cable operators in the Atlanta area will be hit even harder. Right now, WTBS is a local station they can receive off-the-air; after conversion, they'll have to pay the full license fee for the satellite feed.

But for some operators, there are offsetting advantages:

• Operators which insert local commercials in non-broadcast channels will be able to add TBS to their roster of avails.

• Operators who don't presently carry WTBS because they've already reached their distant-signal quotas will be able to add the newly-reincarnated TBS.

IS IT STILL A SUPERSTATION?

Once "TBS Superstation" becomes a non-broadcast program service, will it still be a "superstation"?

Not according to the FCC. The word "superstation" now has a legal definition in the rules: "A superstation is a television broadcast station other than a network station, licensed by the FCC that is secondarily transmitted by a satellite carrier." [4]

But that apparently doesn't bother Turner: it's still going to be called "TBS Superstation." Time Warner's new affiliation contract calls it a "free market superstation."

Free market superstation? Does that mean that all those other non-broadcast programming services are now superstations too?

And what will happen to the real WTBS – the Atlanta UHF station – after TBS becomes a "free market superstation"? Turner won't say, but a sale is an obvious possibility. Another possibility: it could become the Atlanta affiliate of the new WB broadcast network. WB is, after all, owned by Turner's parent, Time Warner.

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[1] *ADI = Area of Dominant Influence, as defined by The Arbitron Company. DMA = Designated Market Area, as defined by Nielsen Media Research. These terms specify the geographic area covered by commercial broadcast television stations for the purpose of rating viewership. The boundaries of these areas are of considerable financial importance to the stations involved because they determine the number of viewers each station can claim, and hence, the dollar amount the station can charge for advertising time. ADI and DMA boundaries usually follow county lines, although many large counties are split (example: San Barnardino County, California, which is larger than the states of Vermont, New Hampshire, and Rhode Island put together).*

[2] *The must-carry rules were subsequently vacated by the courts, and then reestablished by the Cable Television Consumer Protection and Competition Act of 1992. See "Supreme Court Upholds Must-Carry Rules,"* ***Newsletter****, May 1997, pp. 7-9.*

[3] *The Copyright Office identifies the following groups of claimants: Program Suppliers (movies, reruns, and specials); Sports; Public Television (PBS, affiliates, and programmers); Broadcast (commercial networks and stations); Devotional; Canadian; Noncommercial Radio (NPR and affiliates); and Music (ASCAP, BMI, and SESAC). Source: "A Review of the Copyright Licensing Regimes Covering Retransmission of Broadcast Signals." U.S. Copyright Office, August 1997, at II(b)(4).*

[4] *47 CFR 76.64(c)(2).*

FCC Rulemakings

Compiled by Tom Smith

PROPOSED RULEMAKING

MM Docket 98-43
Measures to Streamline Broadcast Application and Licensing Process

The FCC has proposed to make a number of changes in how it process the application and licensing of broadcast stations. The proposals involve the mandatory filing of 16 broadcasting and reporting forms – including applications for new stations and modifications of existing stations – and if there should be waivers for small stations. Some forms would be changed to replace certain narrative forms with certifications from information on worksheet type forms.

The FCC also proposes that applicants would not need to file the sales contract with the FCC when a station transfers owners. Other rule changes that are proposed concerning ownership transfers include the processing of pro forma assignments and transfer applications, eliminating payment restrictions on construction permits and permits obtained by competing applicant agreements. Ownership reports would only be need to be filed at the 4 year midpoint of the license term and when a station is sold.

Other proposals include extending the time allowed to construct a new station or modify station to 3 years, but make it more difficult to get a extension. Several other rule changes would also reduce filings for new station and facility change applicants.

This notice was adopted on April 2, 1998 and has not been published in the FEDERAL REGISTER as of April 22, 1998. Full text is available on the FCC web site. The comment period will end 60 days after publication in the FEDERAL REGISTER with replies accept for 30 days after the comment period ends. This notice has not been published as of April 24,1998.

FINAL RULES

GC Docket 97-113
Electronic Filing of Documents in Rule Making Proceedings; Access to Commission Filings and Opportunities to Participate in Commission Proceedings Greatly Increased

The FCC has amended it's rules to allow filings comments and pleadings by the public via the Internet. Electronic filings will be allowed in most petitions for rule makings, Notice of Inquiry proceedings, petitions for reconsiderations and ex parte filings. Requests for changes in broadcast allotments will not be allowed to be filed electronically.

The FCC will also post comments on the FCC WEB SITE and will include documents from 1992 to the present. This should eliminate the use and cost of file searches in Washington or the services of the copy contract service for information on rule making proceedings.

This action was adopted on April 2, 1998 and is on the FCC web site.

ET Docket 97-94
Streaming Equipment Authorization Process; Electronic Filing Process

The FCC has issued rules for the electronic filing of applications for equipment authorizations. These authorizations are require for certain types of equipment to ensure that they do not cause interference to radio services.

The number of types of authorizations was reduced from 5 to 3 and lowered the level of authorizations for some types of services. The FCC requires that it tests some types of equipment and for some types of equipment, manufactures are only required to file information on their products with the FCC.

This notice was adopted on April 2, 1998.

Neither of these final rule makings were published in the FEDERAL REGISTER as of April 24, 1998. None of this rules will become effective until published.

From FCC Press releases on www.fcc.gov

SBE Listserver Information

Chapter 24 members are invited to join the chapter's listserver. The e-mail address: majordomo@broadcast.net Body of e-mail message: subscribe msnsbe (The "subject" line can be left blank.) To post to the list, send e-mail to: msnsbe@broadcast.net

Also, join the Wisconsin SBE Chapters' listserver. To subscribe, send e-mail to: majordomo@broadcast.net Body of e-mail message: subscribe sbe-wi To post to the list, send e-mail to: sbe-wi@broadcast.net

SBE Short Circuits - April 1998

By John Poray, CAE
SBE Executive Director

1998 SBE CERTIFICATION EXAM DATES

Register today to take a SBE Certification Exam. See below for the next exam registration deadline and exam dates. For more information about SBE Certification, see your Chapter Certification Chairman or contact Linda Godby-Emerick, Certification Director at the SBE National Office at (317) 253-1640 or lgodby@sbe.org.

Exam Dates – November 13-23, 1998
Exam Location – Local Chapters
Application Deadline – September 25, 1998.

MEMBERSHIP DRIVE CONTINUES THROUGH MAY 31

SBE's membership drive, "One New Member" began March 1 and already 33 new members have been sponsored through the month of March. The Drive continues through May 31, so there is plenty of time for everyone to recruit one new member. Recruiters can win great prizes, including the Grand Prize - a trip to the 1998 Electronic Media Expo & SBE National Meeting in Bellevue (Seattle), WA, October 27-29. The Grand Prize includes airfare for one (up to $500, compliments of SBE) and three-nights hotel accommodations in Bellevue, donated by SBE Chapter 16. Second prize is $250 cash, donated by Cintel, Inc. Many other prizes have been donated for the Drive and newly sponsored members are eligible to win these too! plus, each recruiter will receive $5.00 off his/her 1999 membership dues for each new member that he or she recruits, up to $25. All you have to do is recruit at least "One New Member" to be eligible.

SBE members qualify by recruiting Regular, Associate or Sustaining Members. Look for details in the mailing that went to all SBE members in February. The prize drawing will be held July 11, 1998. Winners will be notified by phone and/or mail. The Grand Prize winner has the choice of taking $500 cash instead of the trip. There are no other prize substitutions.

SBE MEMBERSHIP RENEWAL TIME

SBE Membership renewal notices were mailed to all members (except Life Members) in mid-February. If you have not received yours, contact Teresa Ransdell at the SBE National Office at (317) 253-1640 or transdell@sbe.org. Membership Renewals were due by April 1. To avoid interruption of your membership, renew as soon as possible. Regular Member dues remain at $55 for the seventh year.

The Chapter 24 Newsletter is published monthly. Submissions of interest to the broadcast technical community are always welcome. You can email your articles to:

MNorton@ecb.state.wi.us

or send them to:

SBE Chapter 24
Newsletter Editor
5174 Anton Dr. #15
Madison, WI 53719-4201

CHAPTER 24 SUSTAINING MEMBERS

WELCOM TO OUR NEW SUSTAINING MEMBER:

National Tower Service

RECENT RENEWALS:

Louth Automation
Roscor Wisconsin

THANKS TO ALL OUR SUSTAINING MEMBERS:

Alpha Video
BCS Wireless
CTI
Clark Wire and Cable
Comark Communications
Fuji Film
Harris Corporation
Hewlett-Packard
maney-logic
Niall Enterprises
Norlight Telecommunications
Panasonic Broadcast
Richardson Electronics
Scharch Electronics
Skyline Communications
Sony Broadcast
Tektronix
Teleport Minnesota
Video Images
WISC-TV 3
WKOW-TV 27
WMSN-TV 47
WMTV-TV 15

Chapter 24
World Wide Web Site
http://www.sbe24.org

Steve Paugh is the editor for the HTML Version of this Newsletter, available monthly on the SBE Chapter 24 web page.

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FIRST CLASS MAIL

Newsletter edited on Pagemaker 5.0 by: Mike Norton
Contributors this month: Neal McLain, Steve Paugh, Tom Smith, and Tom Weeden.
Thanks to Chris Cain for his work on the Chapter 24 WWW page.