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Broadcasting & Cable

The Newsweekly of Television and Radio

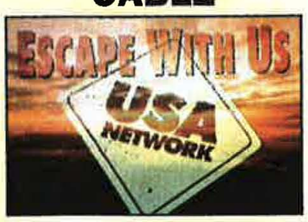
FUTURISTS

Stars of the multimedia world capture the spotlight in San Jose / 14

PROGRAMING

Star Trek spin-off *Deep Space Nine* tops newcomers in Feb. sweeps / 24

CABLE



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QUELLO'S FCC REMAKES THE INDUSTRY

Cable dealt body blow on rates; fin-syn assigned to oblivion / 6

Fast Track

MUST READING FROM BROADCASTING & CABLE

Giants of consumer high-tech (pictured at right) Barry Diller (QVC), Bill Gates (Microsoft), John Sculley (Apple) and John Malone (TCI) headlined a conference in San Jose last week on multimedia. Malone said TCI plans to introduce a set-top computer that will process video and data coming into the home; Gates wants Microsoft to design the operating system. / 14

CABLE'S $1.5 BILLION RATE ROLLBACK

The FCC voted 3-0 last week to freeze current basic and extended-basic rates for four months and to require systems serving between two-thirds and three-quarters of all subscribers to roll back rates up to 10% below their Sept. 30, 1992, levels. Systems whose rates still remain above a to-be-announced competitive benchmark will face further scrutiny and possible rollback and refund orders. The commission estimated that the regulations will mean a potential revenue loss for the industry of at least $1 billion, but its estimate may be low since it includes only the 10% rate rollback and not the rollback to Sept. 30. It also excludes rollbacks on equipment that operators sell or rent to consumers. *(Summary of rules, page 19.)* / **6**

Rumors that Senate Communications subcommittee aide Toni Cook would be named to chair FCC swept through Washington again last week. Last word: maybe this week.

NETWORKS UNCHAINED

The commission last week gutted its financial interest and syndication rules. The networks will be able to negotiate for a financial interest in the once and future success of their programing, but they are prohibited—for now—from actively selling shows in syndication. The networks can now "flex their unparalleled muscle, unchecked and unimpeded, extracting rights and revenues from creators as a condition for putting a program on the air," said Jerry Leider, head of the coalition to save the rules. / **7**

The FCC approved rules to ban unfair or discriminatory practices in the sale of cable programing to competitors of traditional cable systems. / 10

STRONG FIRST SWEEPS FOR 'DEEP SPACE'

'Deep Space Nine' was strong out of the starting gate for its debut showing in the syndication sweeps: its 7.7 rating/17 share in February was second only to that of its progenitor, 'Star Trek: The Next Generation' (9.0/19), among weeklies. 'Batman' and 'Tiny Toon Adventures' took the top spots among kids 2-11. / **24**

ESPN has added pay per view to the functions of ESPN Enterprises. / 24

USA Networks has formed a film production unit that will concentrate on relatively bigger-budget films ($5 million-$10 million). Productions will air on USA and be released theatrically and on TV and video overseas. / 26

On the Cover

Cable was rocked and the networks were rolling last week as the FCC reached long-awaited decisions on cable rates (it ordered a billion-dollar rollback) and fin-syn (it OK'd network stakes in prime time programing). / **6**

Photo: Warren Mattox

"The best picture is seven octopuses, all with their hands in each other's pockets." — TCI Chairman John Malone on a multimedia future / ***14***

Top of the Week

FCC RELEVELS THE PLAYING FIELD

Cable set back, networks set free

Last Thursday (April 1), in dramatic actions that stunned both the broadcasting and cable industries and the media world at large, a short-handed, holdover FCC led by an interim chairman took three actions that could fundamentally change the economics and nature of the telecommunications businesses.

□ Acting under a congressional mandate, it rolled back cable television rates 10% under the levels of last fall, subtracting $1.5 billion from cable's top line and sending cable operators and investors scrambling to figure the impact on the bottom line. □ Under pressure of a court-imposed deadline, the agency acted (in effect) to repeal its financial interest and syndication rules (although delaying repeal of the syndication rules for two years after dismissal of a consent decree). That fight's not yet over, but the advantage now belongs clearly to the broadcast networks that have been precluded from those two areas of television for more than 20 years.

□ And in another precedent-making decision, it implemented rules (program access) to force the cable television industry to make its programing available for sale to its principal competitors, including the DBS, wireless cable and telephone industries.

In the chair for these historic actions was Chairman James H. Quello, who was joined in the 3-0 votes by Commissioners Ervin Duggan and Andrew Barrett. Commissioner Sherrie Marshall (pictured with her colleagues during Thursday's meeting) did not vote. The full accounts of that day's actions follow.

FCC hits cable with rate rollbacks

Commission action is expected to cost industry at least $1.5 billion this year

By Joe Flint

Congress spoke, the FCC listened, and cable lost big.

In what is estimated to be at least a $1.5 billion loss in subscriber and equipment revenues to the cable industry this year alone, the commission voted 3-0 (with Commissioner Sherrie Marshall recusing herself) to cut cable rates by as much as 15%.

According to the commission, about 75% of all cable systems will likely face the rate rollbacks, including a rollback to Sept. 30, 1992 (pre-Cable Act) rates.

The commission also issued an immediate freeze on all cable rates effective today (April 5) for the next four months.

Cable securities, both stocks and bonds, were hammered on Thursday and Friday, having already declined some the prior week. MSO's carrying a heavy debt burden, such as Adelphia and Cablevision Systems, were particularly vulnerable (see box, page 15). By Friday afternoon, most cable MSO stocks were off approximately 20% from their levels of only a few weeks earlier.

Cable operators last week were faced with trying to unravel what the new rules would mean to their bottom line.

Said one cable lobbyist of the long-term impact: "The rules are compelling us to abandon the whole thing to the telcos. We won't be able to provide services to do what we want."

Tele-Communications Inc. was already bracing Wall Street for the regulation last week at an investors' conference. The regulatory problems have already cost industry giant TCI at least $8 million, spent on lobbying, issue

COVER STORY

Continues on page 15

said panelist Apple Computer Chairman John Sculley, is "how do you promote it, how do you get people interested? That's the bottom line here."

Another question for the 1990's, said Sculley, will be how the information-overloaded individual will "screen out the electronic junk mail everyone wants him to read. The answer, he said, is electronic "agents" or "filters," now under development, which will browse tomorrow's massive data flows, picking out each person's morsels.

QVC Network Inc. Chairman Barry Diller said QVC's experience is that people are willing to shop electronically, but "only if all they have to do is point and say yes."

QVC, Diller said, will soon outgrow its orientation toward impulse buying and adopt a "more rationalized schedule with program segments." QVC's future? Diller alluded to a system IBM has been showing around that has an electronic "personal shopper" to assist the harried viewer.

Multimedia, noted panel moderator Stewart Alsop, is widely thought to be the nexus where TV networks, studios, cable, telcos, computer companies, consumer electronics and publishing will all some day converge.

"The best picture is seven octopuses, all with their hands in each other's pockets," said Malone. There will be some convergence, he added, but all seven "will continue to have separate appetites and separate stomachs." ■

Cable rollbacks

Continued from page 6

advertising and other related expenses in the fourth quarter. TCI executives have been reluctant to disclose what they will do operationally should the FCC regulations stick.

But in comments to the press last Thursday in New York, TCI executives provided one view of their long-term response, which is to expand the proportion of revenue coming from nonregulated portions of the business, in part by expanding internationally.

Jim Wholey, Washington representative for Jones Intercable, said the rules are "potentially much worse" than they sound. "Perhaps our biggest concern is how to reconcile this rulemaking with our desire and congressional mandate to invest in upgrading our plant and services."

Joe Collins, chairman and chief executive officer of Time Warner Cable Group and chairman of the National Cable Television Association, said that aside from the 120-day freeze on rates, many of the FCC's rulemakings were "lost in a cloud of details."

"In general, I don't think we're going to find that this has been a terrific day for the business," said Collins. "Virtually everything we package will be impacted by today."

Collins said the cable industry needs to be particularly careful in the months ahead not to "shoot ourselves in both feet" while negotiating retransmission consent with stations. He also issued the by now familiar call to the cable industry to improve its public relations efforts.

Michael Isaacs, director of government affairs and public policy, Providence Journal Co., owner of MSO Colony Communications, with about 700,000 subscribers, offered this response: "There could be some danger here that the FCC action could affect our ability to meet customer needs, maintain program quality and make technology improvements," if revenues drop substantially as a result of the decision.

When not determining the future impact of the rules, the cable industry attacked the FCC's actions as being overreaching and excessive.

NCTA blasted the commission's rules saying it had gone beyond congressional intent, that it would hurt consumers, hurt cable's ability to advance technically and that it would face court challenges.

NCTA President Jim Mooney said the rules will "make it very difficult for us to satisfy the expectations of our subscribers for quality programing and service. These things are expensive to provide, and rate rollbacks, while always temporarily popular, almost always are destructive to quality."

Mooney said the commission's action exceeded its authority under the statute, and he said there was no doubt the issues would end up in the courts, a sentiment echoed by others.

"You'll see a series of appeals—legal challenges to it—with a pretty good likelihood of success," said Amos Hostetter Jr., chairman/CEO, Continental Cablevision. "I think it will create chaos in the interim. It will cut off the availability of new capital to both programers and operators."

"The FCC has clearly pushed the outer bounds of its authority and in some critical aspects, appears to have exceeded that authority. Although crucial details will not be known for several weeks, it seems certain the FCC has misinterpreted the 1993 Cable Act.... We suspect that much of what was done today may not survive judicial scrutiny," said TCI, the nation's largest cable operator, in a statement.

Robert F. Smith, public relations manager for Monmouth Cablevision Associates, Monmouth, N.J., said he is concerned about how the press will portray the rulemakings. "The conclusions will have already been done," said Smith. "Consumers in my neighborhood are going to expect a 15%

Cable fear and loathing on Wall St.

Even with recent warnings from Wall Street securities analysts that MSO stocks would be under pressure come April 1, owners were still caught off guard by the extent of the FCC's rules and sold those stocks across the board late last week. By Friday afternoon cable stocks were off 20% from their level of only a few weeks earlier. And bond prices declined roughly 2%-2½% from just a week earlier. Panic selling included Cablevision Systems, down to 32¾ from 42½ only a few weeks ago, and Tele-Communications Inc., down to 18½ from 24 only a few weeks ago. On the bond side, the market was distinguishing slightly between highly leveraged companies (such as Adelphia Communications and Jones Intercable), and those with less debt, said Bob Kricheff, director of high-yield research for First Boston. Kricheff noted that at least two MSO's, Continental and Adelphia, had debt offerings outstanding that could potentially be affected by the problems in the market. —GF

Networks victorious in fin-syn fight

FCC opens door to rerun business for big three, but consent decrees still block way

By Harry A. Jessell

The FCC gutted its two-year-old financial interest and syndication rules last Thursday, putting the big three broadcast networks on the verge of entering the lucrative network rerun business, much to the dismay of Hollywood, which has battled for more than two decades to keep them out.

The agency also exempted Fox from all fin-syn obligations, permitting it to remain in the syndication business even if the Fox network expands its prime time schedule to a full 22 hours per week.

All that now stands in the networks' way are whatever new legal hurdles Hollywood erects and the antitrust consent decrees that parallel the original strict fin-syn rules.

How successful the hurdles will be is anybody's guess, but the consent decrees are expected to be lifted later this year.

The FCC's action "has the networks dancing in the streets," said Jerry Leider, one of the producers who led the broad coalition opposing changes in the rules. "The networks can once again flex their unparalleled muscle, unchecked and unimpeded, extracting rights and revenue from creators as a condition for putting a program on the air."

Independent broadcasters, fearing network control of off-network programing, were also stung. There may come a day when independents no longer need protection from networks, said Association of Independent Television Stations President Jim Hedlund. "But that isn't the case today."

If the networks were dancing, they were doing so in private. "It's a step in the right direction," said NBC President Robert Wright, who grumbled about the perpetuation of restrictions on domestic and first-run syndication and the Fox exemption.

The networks were also nervous about the consent decrees. Until U.S. District Court Judge Robert Kelleher acts on them, the networks can do nothing. The Bush Justice Department called for gutting the decrees, but the Clinton Justice Department, the networks fear, may be turned around by Hollywood, which has close ties to the President. "The corks are still in the champagne bottles," said one network executive.

Fox was the biggest and clearest winner. Without the exemption, it would be restricted to 15 hours of prime time per week—the point at which it would become subject to fin-syn restrictions and have to abandon either the network or syndication business.

(It was Fox that persuaded key members of Congress to give the green light to the FCC to reopen the fin-syn issue in 1990.)

Once the consent decrees are gone, the broadcast networks will be able to acquire financial interest and syndication rights in all their programs—including those in prime time—without restrictions.

However, they will be barred for two or three years from acquiring backend rights in first-run syndicated programs, except those they produce in-house, and from syndicating—actively selling—any program in the U.S. market. They will be permitted to syndicate shows overseas.

The syndication restrictions are set to expire two years after the consent decrees are lifted, although proponents will have an opportunity six months prior to the sunset to make a case for their retention.

The commission's action was precipitated by the U.S. Court of Appeals in Chicago, which last November tentatively vacated the 1991 rules as "un-

Quello makes his mark

Jim Quello's chairmanship of the FCC could last only weeks or months—his February appointment is good only until President Clinton gets around to appointing a permanent chairman. But when his time is up and he returns to a commissioner's role, he'll be able to boast that his commission changed the television landscape with its industry-shaking cable rates, program access and fin-syn actions.

Even Quello was impressed by the impact of the decision to trim cable rates by up to $1.5 billion. "I never thought I'd see the day when fin-syn would take second-billing," he says, noting that fin-syn has been the most hotly contested issue in his 19 years at the agency.

All in all, he is satisfied by what the FCC has wrought. The relaxation of the fin-syn rules, along with the adoption last month of rules giving TV stations either mandatory carriage on cable systems or the opportunity to negotiate for carriage fees, advance his personal goal. "The preservation of free, universal TV is an important, if unspoken, beneficiary of these actions," he says.

Quello also feels the FCC took a "reasonable first step" in regulating cable rates as mandated by the 1992 Cable Act. "We gave the public some rate relief without killing the business," he says. "We are not in the business of killing businesses here."

That the FCC produced the complex cable and fin-syn rules on a tight schedule is evidence of the hard work and unusual harmony now prevailing at the agency. Quello adds: "I don't think anyone here wants to fail me or make me look bad." —HAJ