

## IS CATV'S FUTURE IN FCC'S HANDS? continued

tems, saying that the commission might want to assume authority for making a finding as to whether proposed systems would be in the public interest—a function now exercised, if at all, by state and local authorities. There is also interest in such questions as multiple-ownership and cross ownership of CATV and broadcast media, and whether access to CATV channels should be limited to the owner of a system (BROADCASTING, June 17).

**Big Backlog** ■ But much of the concern at the commission is with its backlog of CATV cases. There are pending some 200 top-100-market cases—in which CATV systems seek waivers of the rule requiring hearings when systems propose to import distant signals into major markets—and most are over two years old. Also pending are some 300 other cases. The load is primarily the responsibility of a 12-member task force.

Some officials favor junking the top-100-market rule. The hearing it requires is intended to determine whether a system would have an adverse impact on present or potential UHF stations in major markets. But CATV representatives regard the rule as a thinly disguised freeze on the establishment of cable systems in those markets—and

some commission officials agree.

Commission sources say the hearings are slow and costly, and not likely to establish proof of anything. Of some two dozen top-100-market cases designated for hearing since the rules were adopted, only one has reached the stage of an initial decision. There is talk of replacing the rule with one that would simply permit long-distance importation in some markets, presumably underserved ones, and prohibit it in others.

**Job for Congress** ■ Both the majority and minority opinions in the Supreme Court decision last week reflected the view that the job of apportioning copyright liability in CATV matters is best left to Congress.

The Justice Department, in a friend-of-the-court brief, had suggested that the court accommodate the various interests by holding that CATV systems relaying only the signals of local stations be exempt from copyright liability. But Justice Potter Stewart, writing for the majority, said that kind of compromise job is for Congress to perform. And Justice Abe Fortas, the lone dissenter, said: "Our ax, being a rule of law, must cut straight and sharp and deep; and perhaps this is a situation that calls for the compromise of theory and for the architectural improvisation

which only legislation can accomplish."

Legislation providing for the first overhaul of the copyright statute since 1909 has been pending in Congress for almost two years; the office of the register of copyright has been working on the matter for 13 years. And the Senate version of the bill contains a provision that would specifically make CATV systems liable for copyright payments but also provide for certain exemptions—for instance, systems carrying only local signals and not originating programs would be exempt. The CATV section was stricken by the House, when it approved the bill.

But no one expects Congress to move fast on the copyright bill. Action on it had been stalled largely because of disagreements on the cable-TV section between copyright holders and broadcasters on the one hand and CATV representatives on the other. Even before the Supreme Court decision came down, there was no likelihood that Congress would complete action on the bill in the final weeks of the current session.

(The commission has long been aware of this, and began taking its "new look" at its CATV responsibilities two weeks ago, after the court decision on its powers to regulate CATV. Sol Schildhouse, chief of the CATV task force, was instructed to suggest a new approach to CATV regulation. His recommendations are to be made through General Counsel Henry Geller and Broadcast Bureau Chief George Smith, an apparent concession to those on the commission who feel the task force has been pro-CATV in administering the CATV rules.)

**Not Soon** ■ In view of the court decision, the expectation is that Congress will not act before the second session of the next Congress—that is, some time in 1970—if then. Any of the parties directly affected by the legislation could probably block action. And it was widely assumed that the CATV industry, in view of the Supreme Court decision, would be more inclined to stall than to speed action on new legislation.

This clearly is the expectation of broadcasting industry representatives. Members of the National Association of Broadcasters committee that has been attempting to negotiate a bi-industry agreement with the National Cable Television Association are not sanguine about the future of those negotiations.

However, NCTA officials indicated readiness to continue the negotiations (see page 21). And one cableman, Irving Kahn, who is chairman and president of Teleprompter Corp. and a member of the NCTA's negotiating team on the copyright matter, took a decidedly positive approach. He said that although he is "thrilled" that the court's decision "was totally in CATV's

### Wired TV possibility, Roger Clipp believes

A man who helped to build a 16-station broadcast group and its worldwide syndication subsidiary from a Philadelphia radio station foresees a time that most TV transmitters can be closed down.

Roger W. Clipp, who stepped down Jan. 31 as general manager of the radio and television division of Triangle Publications Inc., predicted that "by 1985, using the most conservative figures, 46-million homes out of an estimated total of 70 million will be connected by wire to program origination sources. For all practical purposes, most of the 800 or more TV transmitters can be padlocked."

Mr. Clipp's prophecy was made in a short speech following his acceptance of the silver medal award from Philadelphia's advertising society, the Poor Richard Club. Club President Alfred McCrea (r) and Dr. Millard Gladfelter (c). Temple University



chancellor, conferred the medal on Mr. Clipp.

Triangle has nine CATV systems in New York and Pennsylvania in addition to its stations. Mr. Clipp remains with Triangle as a vice president and consultant.