

Judiciary Committee to make changes in the draft copyright law, then under consideration, that would in effect overturn the district court's decision. The unanimous opinion of the U.S. Court of Appeals for the Second Circuit reversing the district court (BROADCASTING, Oct. 18, 1982) took on considerable importance with Congress's failure to enact the new copyright bill.

The appeals court made three points in declaring EMI a passive carrier: EMI had only one transponder available for its extra-terrestrial services, so it "naturally" sought to retransmit the signals of a "marketable station." The requirement of an absence of direct or indirect control over the particular recipients of (a passive carrier's) retransmission "is fully satisfied" by EMI. And EMI provides only "wires, cables or other communications channels for the use of others"—the cable systems receiving the signals of WOR-TV and other "originators." The carrier is selling only its services, not the Mets games. □

## Hawkins Marti bill would restrict station to Marathon's 1180

**Legislation worked out in White House meeting does not please NAB**

A new Radio Marti bill (S. 602) was introduced in the Senate late last week, configured in a way the Reagan administration hoped would win the support—or at least avoid arousing the opposition—of American broadcasters. But it was disappointed on that score. The National Association of Broadcasters, said its president, Edward Fritts, will oppose the bill.

Under the measure, introduced by Senator Paula Hawkins (R-Fla.), the station that the administration is determined to establish to break what it says is the Castro government's monopoly on news in Cuba, would be restricted in broadcasting on the AM band to the frequency used by the Voice of America station on Florida's Marathon Key—1180 khz—or to those frequencies of commercial or noncommercial stations willing to lease time for Radio Marti broadcasts.

The bill was introduced with the full support of the Reagan administration. In fact, Hawkins at a press conference on Friday said final details were discussed at a White House meeting on Tuesday, attended by Secretary of State George Schultz, Assistant Secretary of State for Inter-American Affairs Thomas Enders and, from time to time, President Reagan. (At another meeting on the same day, the President sought Radio Marti support from a group of congressmen [see page 76].)

The Radio Marti bill introduced in the last Congress easily passed the House and was reported favorably by the Senate Foreign Relations Committee. But it died in the lame duck session because of a lack of time and the threatened filibuster of Senator Edward Zorinsky (D-Neb.), who was expressing the

concerns of broadcasters in his state and elsewhere who feared establishment of Radio Marti on an AM frequency—as the administration was proposing—would exacerbate the interference problems Cuba has been causing stations in Florida and other states for 15 years.

The new bill was drafted with those concerns in mind. Besides limiting broadcasting to Cuba on the AM band to the Radio Marathon frequency or the frequencies of stations willing to lease time, the bill would permit Radio Marti to choose among other options, such as broadcasting on frequencies above or below the AM band, which extends from 535 khz to 1605 khz, or in the shortwave band. It would even permit Radio Marti to lease time on foreign stations.

If the Radio Marathon option were selected, Radio Marti would be authorized to use its facilities. But what that means precisely, is left open. A State Department official said the two radios might use the facilities "jointly," or that Radio Marti might be "substituted" for Radio Marathon. Another option—considered least likely—is that Radio Marti would become part of the Voice.

Radio Marti would be governed by the Board for International Broadcasting.

One change in the bill from the measure approved by the House is that the Hawkins bill does not provide for compensation to be made to broadcasters who upgrade their facilities to counter Cuban interference. Hawkins said such a provision had been in an earlier version of her bill but dropped. However, she said she would "entertain" such an amendment. She indicated she would not be likely to endorse compensation that was designed to reimburse broadcasters for advertising revenues lost to the interference problems, as well as for improving facilities.

Zorinsky was out of Washington on Friday and, according to an aide, would not comment on the Hawkins bill until he had seen it. But the NAB was ready with a comment, in which it said that, despite a series of talks between Enders and Fritts that extended over several months, "fundamental problems remain." Until those problems are resolved, the statement added, the NAB will oppose the bill.

The brief statement reflects considerable feeling on the matter. For in the last Congress, the NAB avoided going on record in opposition to the administration's Radio Marti bill—it simply stressed its concern regarding Cuban-caused interference, existing and potential. And the NAB's position, as expressed by Fritts, represents the association's first open break with a President whose views it generally finds congenial.

Fritts later told BROADCASTING that the NAB is concerned that establishing Radio Marti on "any" AM commercial frequency (and 1180 khz is shared with WHAM[AM] Rochester, N.Y.) is "potentially detrimental" to the entire AM broadcasting system in America. It could "spawn a radio war" in which U.S. broadcasters would be "devastated," he said. He said the NAB would seek to modify the bill as it moves through the legislative process.

A State Department official said the U.S.

has been attempting to negotiate the issue with Cuba for 10 years, in forums provided by the international organizations to which both countries belong. He said those efforts would continue, but he appeared to rule out any new initiatives, such as discussions in Havana. But if the NAB is worried that Cuba might respond to Radio Marti broadcasts by stepping up the interference its stations are already causing American broadcasters, Hawkins is not. Asked about the threat of retaliation Castro has made, Hawkins said, "The President has asked for Radio Marti. We do what the President wants, not Castro. What he's threatening is against international law. You can't let a two-bit dictator dictate our foreign policy."

A State Department official put the matter more diplomatically: "We don't think the interference problem will increase. But the U.S. shouldn't make foreign policy under foreign threats; such threats are inadmissible."

Hawkins said Radio Marti is needed to provide the Cuban people with "an alternative to government-sponsored news and programs." They are not aware of events involving Cuba internally or internationally, she said. Radio Marti, she said, will provide that information, from what she said was the "mismanagement" of the Cuban economy to the rising cost in lives of Cuban soldiers who have died in Cuba. □

## RADAR report shows drop in radio network listening

Network radio listening is off slightly, according to the just-released fall 1982 RADAR report which shows that 71% of people 12 and older listen to one or more network commercials in a week—down 2% from the spring report.

The report, released by Statistical Research Inc., Westfield, N.J., shows ABC's Information Network emerging on top among persons 12-plus, with an average audience estimate of 1,943,000 listeners per commercial broadcast, Monday to Sunday, 6 a.m. to midnight. Following ABC Information are NBC Radio Network (1,730,000) and ABC Entertainment Network (1,642,000). The same three networks also finished on top with adults 18-plus.

Networks showing the largest percentage gains in listeners in the 12-plus demographic are: Sheridan (up 40.5%), RKO II (28.7%), RKO I (up 25.3%), ABC-FM (up 14.8%) and NBC Radio Network (up 6.5%), while CBS Radio Network and NBC's Source slipped 9% and 3% respectively.

As for cumulative listening among persons 12-plus for the total week, NBC Radio Network is the leader followed by ABC Information and ABC Contemporary. According to RADAR, top network programs based on average audience estimates of persons 12-plus are ABC Radio's Paul Harvey news and commentary programs, which held the top three positions, followed by different CBS news-on-the-hour broadcasts. □