NAB and public broadcasters differ on logo legislation

NAB claims that FCC must change its rules allowing public TV airing of corporation symbols; NAPTS says no change is needed

The National Association of Broadcasters and noncommercial broadcasters are apparently at loggerheads over the intent of a key provision of the new communications legislation and its effect on pending FCC rules.

The provision, part of the new communications law package included in the budget reconciliation bill signed by President Reagan (BROADCASTING, Aug. 17), allows public television to broadcast the logos of corporate underwriters. Although the FCC has passed its own rule authorizing public broadcasters to run logos and to identify an underwriters' product lines (BROADCASTING, April 27), the NAB filed a petition of reconsideration on June 22 asking that the FCC clarify its guidelines to prevent public broadcasters from turning "donor acknowledgments into commercial advertisements."

Now the NAB is arguing that the new law requires the FCC to revise its rule, charging that Congress has implied that the rule goes too far. Nonetheless, the National Association of Public Television Stations and the Public Broadcasting Service have rebutted that the new law doesn't mandate the FCC to revise its underwriting rules.

Under the FCC rule, public broadcasters are allowed to broadcast logos and to identify the product lines of program underwriters. Previously, they were allowed only to run the names of underwriters—set in plain type—at the beginning and/or end of programs, with additional ID's permitted in programs longer than an hour.

Although the ruling continues to prohibit broadcasters from airing programs and announcements for pay, it allows them to air unpaid promotions of goods and services when the public broadcaster determines that such a promotion would serve the public interest.

In comments filed Aug. 7, the NAB argued that in the new law, Congress had intended that public broadcasters be allowed to broadcast only those logos that are "value neutral and solely for the purpose of generic identification." The NAB also argued that the committee that authored the provision had said it didn't want to see products or services included as a part of underwriting announcements, which "evidences its [Congress's] opposition to visual identification of products or product lines on educational television," the NAB said.

As a result, the NAB said the FCC was under a "congressional mandate" to revise its regulations on the use of logos, keeping in mind the "committee's clearly stated position regarding the nonvisual, content-neutral use of underwriter announcements."

The NAB also urged the FCC to prohibit public broadcasters from airing any logos "containing promotional information."

NAPTS and PBS, however, said that although the FCC could revise its rule if it wished, the NAB was wrong to assume that the new law imposes a congressional mandate on that revision. "There is nothing in the [new law] or its legislative history which requires the commission to review the underwriting rules ... nor is there anything which requires the commission to prohibit references to product lines in underwriting credits," they said.

The groups said that under the new law, the FCC had the discretion to regulate the underwriting guidelines for public broadcasters, and already had exercised that discretion with the promulgation of its underwriting rule.

"That decision, as well as the other rules adopted in the decision, appropriately balance the competing interests between public broadcasting's need to raise revenue and the importance of maintaining its noncommercial character," the groups said. "The decision was fully supported by the record in this proceeding and there is no basis to reconsider it. The NAB's assertion is without merit and should be rejected," they said.

In a separate action, NAPTS and PBS filed a petition Aug. 24, asking the FCC to declare that another provision of the new law was "self-executing," and as such, would supersede the FCC's own rules.

That provision allows public broadcasters to accept payment in exchange for services, products or use of facilities as long as the facilities aren't made available for the broadcast of an advertisement, no Corporation for Public Broadcasting funds are used to defray any of the costs associated with the offering of the service, offering the service doesn't interfere with the provision of public telecommunications services by a station and the stations develop separate accounting systems to identify and report the amount received from offering such services.

In its petition, the groups noted that the provision is "more permissive" than the commission's own rules in that it permits public broadcasters to receive payment for broadcasting nonpromotional material and allows public broadcasters to broadcast

Washington Watch

Classical detente. Two citizen groups—Classical Radio for Connecticut Inc. and WTIC-FM Listeners' Guild—and Ten Eighty Corp., licensee of WTIC-AM-FM Hartford, Conn., have announced settlement of four-year-old litigation over deletion of classical music format on WTIC-FM in 1977. In return for two citizen groups dropping law suit, Ten Eighty has agreed to give $5,500 to Connecticut Public Broadcasting to help defray costs of upgrading facilities of WPBH-FM Middlefield, Conn.; contribute $5,500 to Hartt School of Music to support broadcasts of concerts at school, and donate its classical record library to WPBH-FM and WWUH-FM West Hartford, Conn., licensed to University of Hartford.

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NBC's 10-4. FCC has been affirmed in its action dismissing without evidentiary hearing claim by Yellow Freight System Inc. that NBC was guilty of deliberate distortion in three programs on highway safety in trucking industry that were broadcast in 1977. U.S. Court of Appeals for Tenth Circuit, in Denver, said that "while it is possible that there were errors in the three broadcasts, the inclusion of incorrect information cannot, in itself, lead to the conclusion that the network deliberately presented false reports." Court supported commission conclusion that Yellow Freight had failed to meet commission's standard for calling hearing in case—submission of extrinsic evidence of deliberate distortion.

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Moving south. National Public Radio has petitioned FCC to start rulemaking proceeding to permit Class D noncommercial educational radio stations to operate on nonreserved FM channels within 199 miles of Mexican border. Current treaty prohibits Class D stations from moving to commercial frequencies there. NPR said FCC should renegotiate treaty to permit placement of Class D stations on frequencies above 92 mhz.

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Make it known. American Legal Foundation has petitioned FCC to initiate rulemaking that would require broadcasters entering into agreements with citizen groups to file such agreements with commission and make over-air announcements concerning agreements "at least once daily on four different days within two weeks of concluding agreement." Current rule provides only that citizen agreements be placed in station's public file.