

## C.B.S. CALLS SUIT ACT OF REPRISAL

Charges Antitrust Action Is  
a Plan for Harassment

By LES BROWN

The Columbia Broadcasting System, in its answer to an antitrust suit filed by the Justice Department in April, 1972, asserted yesterday that the legal action by the Government was an act of reprisal against the network for exercising its First Amendment rights in covering news of the Nixon Administration.

C.B.S. charged that the suit, which holds that the network illegally monopolizes entertainment programming, was part of "an unlawful plan" to use the machinery of the Federal Government to "restrain, intimidate and inhibit criticism of the President of the United States and his appointees" and that the suit had the purpose of "harassing" the network.

All three network corporations yesterday filed answers in United States District Court for the Central District of California to similar antitrust suits brought against each of them by the Justice Department. Although all asserted a First Amendment defense, only C.B.S. answered aggressively with charges to the effect that the objective of the suit was not really to enforce antitrust laws but to threaten and/or punish the networks in behalf of the Nixon Administration.

### Constitution Is Cited

The C.B.S. brief argued that the Justice Department suit "constitutes an impermissible use of the powers vested in the President and the Attorney General" by the Constitution.

An official of the National Broadcasting Company said in its answer to the complaint argued that the suit impinged on First Amendment values, but contrast to that of C.B.S., was "not as explicit and certainly less provocative."

Counsel for the American Broadcasting Company was not available late yesterday, but other sources said its brief uses every defense available, including that of the First Amendment.

The Justice Department's civil suits, which were filed while Richard G. Kleindienst was Acting Attorney General, would prohibit the networks from producing entertainment shows or financing motion pictures. A similar suit had been filed by five of the major Hollywood film studios against the three networks.

The Federal Communications Commission has also been interested in imposing such restraints on the networks, but this week it suddenly dropped its plan to issue proposed rule to force the networks out of entertainment production and prohibit them from leasing their facilities to outside producers.

### Vehement Argument

An F.C.C. source related that, in a heated meeting on Wednesday, outgoing Commissioner H. Rex Lee had argued vehemently against the proposed action because he said it would impair the news capability of the networks. Several other commissioners indicated they were unsure of the wisdom of such an action against the networks at this time, the source said, and the decision was made to set it aside.

A high-ranking C.B.S. official, commenting on the F.C.C.'s postponement of its proposed rule against the networks said the commission's abandoned plan was directly related to the Justice Department antitrust action. He said it had "overtones" of being calculated to strengthen the department's case.

The department's antitrust division had prepared the case more than 10 years ago, but no Attorney General would authorize it until Mr. Kleindienst succeeded John N. Mitchell in 1972, the official said. He said that the C.B.S. charges against the Administration in its brief had been "written by responsible lawyers and not based on smoke."

The C.B.S. official acknowledged that to claim harassment and intimidation on the part of the Government "might look like opportunism" by the network in light of the Administration memorandums that now prove there had been an organized attack against the networks.

But, he said, "the C.B.S. charges are a responsible action, and not to make them is indefensible."